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RESOLUTION NO. CHA-02-16

**A RESOLUTION OF THE COLTON HOUSING
AUTHORITY APPROVING AN AFFORDABLE HOUSING
AGREEMENT AND REGULATORY AGREEMENT
BETWEEN THE COLTON HOUSING AUTHORITY AND
RM II, LLC**

WHEREAS, prior to its dissolution, the Redevelopment Agency for the City of Colton ("Redevelopment Agency") owned certain real properties listed as San Bernardino County Assessor's Parcel Numbers 275-311-01, 25, 30, 43, 62, 69, 78, 81, 82, 96; 275-312-02, 04, 11, 52, 68, 71, 74, 76; 275-313-05, 22, 28, 32, 56, 68, 80 ("Properties") located in the Rancho Mediterrania Mobile Home Estates ("Rancho Med"); and

WHEREAS, Assembly Bill 1X 26, enacted in June 2011, required the dissolution of redevelopment agencies and established certain procedures and requirements for the wind-down of their activities; and

WHEREAS, pursuant to Health and Safety Code section 34176, on July 17, 2012, the Successor Agency to the Redevelopment Agency for the City of Colton ("Successor Agency") adopted Resolution SAR-04-12 approving the transfer of the former Redevelopment Agency's housing assets and liabilities, including the Properties, to the Colton Housing Authority ("Authority"), as the Redevelopment Agency's successor housing entity; and

WHEREAS, for the last 2 years, the Rancho Mediterrania Home Owners Association ("HOA") has increasingly placed fines on properties in Rancho Med for perceived violations of the Covenants, Conditions and Restrictions ("CC&Rs") and the Rules and Regulations ("Rules"), including the Properties; and

WHEREAS, many of the Properties' tenants have complied with the CC&Rs and Rules but almost half of the tenants have incurred fines and require repairs that are beyond their financial capacity and, when tenants could not pay the fines and correct the deficiencies, the fines and deficiencies become the responsibility of the Authority as landlord; and

WHEREAS, the Authority does not have the staff or the budget to manage the Properties long-term; and

WHEREAS, pursuant to Health and Safety Code Section 34312.3(b), the Authority may sell the Properties after holding a noticed public hearing, provided that the Authority uses the proceeds of the sale of the Properties for affordable housing purposes, and the Authority provided a properly noticed public hearing for the sale of the Properties on October 20, 2015; and

WHEREAS, on November 3, 2015, the Authority board reviewed two proposals to purchase and manage the Properties as affordable housing, as well as assume responsibility for all deficiencies and accrued fines, and directed staff to begin negotiations with Neal Grabowski,

1 Managing Member of RM II, LLC ("Buyer") to purchase the Properties, operate the Properties as
2 affordable housing, and assume all of the Authority's liabilities and fines associated with the
Properties; and

3 **WHEREAS**, Authority and Buyer have negotiated an Affordable Housing
4 Agreement (Rancho Med) ("Agreement"), a copy of which is attached hereto as Exhibit "A," and
5 Regulatory Agreement (Rancho Med) ("Regulatory Agreement"), a copy of which is attached
6 hereto as Exhibit "B," for Authority to sell the Properties to Buyer for the purchase price of \$1.00
in exchange for Buyer agreeing to manage the Properties as affordable housing and to assume all
deficiencies and fines accrued against the Properties; and

7 **WHEREAS**, pursuant to Government Code Section 65402, on February 23, 2016,
8 the City of Colton Planning Commission approved Resolution No. R-6-16 making certain
9 findings that the sale of the Properties is in conformity with the City's General Plan; and

10 **WHEREAS**, the Agreement and Regulatory Agreement implement the goals and
11 objectives of the Authority by continuing to provide existing and future tenants with affordable
12 housing, and resolving current and ongoing deficiencies and fines assessed against the Properties
by the HOA; and

13 **WHEREAS**, a budget appropriation/expenditure for escrow fees and closing costs
14 associated with the Agreement, not listed in the 2015-16 Fiscal Year Budget, is required and must
be approved by resolution of the Board of Commissioners of the Authority.

15 **WHEREAS**, all other legal prerequisites to the adoption of this Resolution have
16 occurred.

17 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD**
18 **OF THE COLTON HOUSING AUTHORITY:**

19 SECTION 1. INCORPORATION OF RECITALS. The foregoing recitals are
20 true and correct and are incorporated herein and made an operative part of this Resolution.

21 SECTION 2. CEQA. Authority staff has determined that the Authority's
22 approval of the Agreement and Regulatory Agreement are exempt from the California
23 Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3),
24 because it can be seen with certainty that there is no possibility that the Agreement or Regulatory
25 Agreement may have a significant effect on the environment. As a result, such action does not
constitute a project subject to the requirements of CEQA. The Secretary to the Authority Board is
authorized and directed to file a Notice of Exemption with the appropriate official of the County
of San Bernardino, California, within five (5) days following the date of adoption of this
Resolution.

26 SECTION 3. APPROVAL OF AGREEMENT AND REGULATORY
27 AGREEMENT. The Authority hereby approves the Agreement and Regulatory Agreement in
28 substantially the form attached hereto as Exhibit A and Exhibit B.

1 SECTION 4: IMPLEMENTATION. The Executive Director or his designee is
2 hereby authorized to execute any and all documents, and take any and all action necessary to
3 carry out the purposes of the Agreement, Regulatory Agreement and this Resolution in
4 compliance with applicable law, including authorizing non-substantive changes to the Agreement
and Regulatory Agreement, executing the Agreement and Regulatory Agreement, and taking any
actions necessary to effectuate the transfer of the Properties to Buyer.

5 SECTION 5: TRANSFER IN AUTHORITY ACCOUNT. The Authority
6 authorizes this amendment, and adjustment to the Fiscal Year 2015-16 budget, decreasing
7 Account Number 898-9000-9800-3890 (Capital Improvements) by \$50,000 and increasing
8 Account Number 898-9000-9800-2350 (Professional Services) in the amount of \$50,000 for
escrow fees and related costs associated with the Agreement.


9 SECTION 6: SEVERABILITY. If any provision of this Resolution or the
10 application of any such provision to any person or circumstance is held invalid, such invalidity
11 shall not affect other provisions or applications of this Resolution that can be given effect without
the invalid provision or application, and to this end the provisions of this Resolution are
severable. Authority declares that Authority would have adopted this Resolution irrespective of
the invalidity of any particular portion of this Resolution.

12 SECTION 8: EFFECTIVE DATE. This Resolution shall become effective upon
13 its adoption.

14 **PASSED, APPROVED AND ADOPTED** this 15th day of March, 2016.

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18 Isaac T. Suchil
Vice Chairman

19 ATTEST:

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22 Carolina R. Padilla
23 Secretary to the Board
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EXHIBIT A
AFFORDABLE HOUSING AGREEMENT

[Attached behind this cover page]

**AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

by and between

**COLTON HOUSING AUTHORITY,
a California public body, corporate and politic,**

and

**RM II LLC
a California Limited Liability Company**

[Dated as of March 15, 2016 for reference purposes only]

AFFORDABLE HOUSING AGREEMENT (Rancho Med)

THIS AFFORDABLE HOUSING AGREEMENT (Rancho Med) ("Agreement") is dated as of March 15, 2016, for reference purposes only, and is entered into by and between the Colton Housing Authority, a public body, corporate and politic ("Authority") and RM II LLC, a California limited liability company ("Buyer"). Authority and Buyer enter into this Agreement with reference to the following recited facts (each a "Recital"):

RECITALS

A. The former Redevelopment Agency of the City of Colton ("Agency") owned that certain real property, consisting of 25 lots, as more particularly described in Exhibit A-1 and depicted in Exhibit A-2, which are attached hereto and incorporated herein by this reference ("Properties"), in Rancho Mediterranean Mobile Home Estates, a mobile home park located at 700 E. Washington St., Colton, CA 92324 San Bernardino County Assessor's Parcel Numbers ("APN") 275-311-01, 25, 30, 43, 62, 69, 78, 81, 82, 96; 275-312-02, 04, 11, 52, 68, 71, 74, 76; 275-313-05, 22, 28, 32, 56, 68, 80 ("Rancho Med").

B. As part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments.

C. A Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement. On December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012, including the Agency.

D. Health and Safety Code section 34176 provides that the City of Colton ("City") may elect to retain the housing assets and functions previously performed by the Agency, but if it does not so elect, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Agency shall be transferred as follows: (1) where there is no housing authority in the territorial jurisdiction of the Agency, to the State of California Department of Housing and Community Development; (2) where there is one local housing authority in the territorial jurisdiction of the Agency, to that housing authority; (3) where there is more than one local housing authority in the territorial jurisdiction of the Agency, to the local housing authority selected by the City.

E. The City elected for the Authority to perform all of the housing functions of the Agency and transferred the Agency's housing assets upon the dissolution of the Agency pursuant to Health and Safety Code section 34176, including the Properties.

F. The Authority does not have the personnel or resources to continue managing the Properties. Additionally, for the past two years, the Rancho Med Homeowners Association ("HOA") has increasingly imposed fines on the Authority for alleged violations of the Covenants, Conditions and Restrictions and the Rules and Regulations ("HOA Rules") applicable to the Properties. Public bidding requirements delay the Authority's ability to hire contractors to make the repairs necessary to comply within the timeframes required by the HOA.

G. The Authority desires to transfer ownership of the Properties to a private party that can work with the HOA to correct any alleged violations of the HOA Rules and maintain and operate the Properties as affordable housing.

H. Buyer has experience working with the HOA to bring properties into compliance with the HOA Rules. Authority received two (2) proposals for the purchase of the Properties, including Buyer's formal letter of intent, dated October 26, 2015, to the Authority proposing to purchase the Properties for the sum of One Dollar (\$1) and in exchange for such consideration, to assume responsibility for maintenance of the Properties and to work with the HOA to bring the Properties into compliance with the HOA Rules. On November 3, 2015, the Authority Board considered both proposals and directed Authority staff to commence negotiations with Buyer for Buyer's acquisition and maintenance of the Properties.

I. The Parties now desire to enter into this Agreement for Buyer to purchase the Properties from the Authority and for Buyer to assume responsibility for maintaining the Properties, in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION AND THE PROMISES AND COVENANTS OF THE PARTIES SET FORTH IN THIS AGREEMENT, THE PARTIES AGREE, AS FOLLOWS:

ARTICLE 1

DEFINITIONS

1.1 **Defined Terms.** In addition to the usage of certain words, terms or phrases that are defined in the initial paragraph or Recitals of this Agreement, the following words, terms and phrases are used in this Agreement, as follows, unless the particular context of usage of a word, term or phrase requires another interpretation:

1.1.1 "Agreement" means this Affordable Housing Agreement (Rancho Med), between Authority and Buyer, including all of the exhibits attached to this Agreement.

1.1.2 "Affiliate" of any specified Person means any other Person, directly or indirectly, Controlling or Controlled by or under common Control with such specified Person.

1.1.3 "Application" means an agreement, application, certificate, document or submission (or amendment of any of the foregoing): (a) necessary or appropriate for the Properties, including any application for any building permit, utility service or hookup, easement, covenant, condition, restriction, subdivision or such other instrument as Buyer may reasonably request for

the Properties; or (b) to enable Buyer to seek any Approval in accordance with this Agreement or the Regulatory Agreement.

1.1.4 “Approvals” means any and all licenses, permits, approvals, consents, certificates (including certificate(s) of occupancy), rulings, variances, authorizations, or amendments to any of the foregoing, as shall be necessary or appropriate under any Law to commence, perform, or complete any construction, demolition, installation, use, maintenance, repair, occupancy or operation of the Properties, including any associated CEQA Document.

1.1.5 “Authority” means the Colton Housing Authority, a public body, corporate and politic.

1.1.6 “Authority Deed” means a grant deed in substantially the form of Exhibit B to this Agreement, conveying the Authority’s interest in each of the Properties to the Buyer.

1.1.7 “Authority Parties” means, collectively, the Authority, its governing body, elected officials, employees, agents and attorneys.

1.1.8 “Authority Party” means, individually, the Authority, its governing body, elected officials, employees, agents or attorneys.

1.1.9 “Authority’s Title Notice Response” means the written response of the Authority to the Buyer’s Title Notice, in which the Authority elects to either: (i) cause the removal from the Preliminary Report of any matter disapproved in the Buyer’s Title Notice, (ii) obtain title insurance in a form reasonably satisfactory to the Buyer insuring against the effects of any matters disapproved or conditionally approved in the Buyer’s Title Notice, (iii) otherwise satisfy the Buyer regarding any matter disapproved or conditionally approved in the Buyer’s Title Notice, or (iv) not to take any action described in either (i), (ii) or (iii).

1.1.10 “Bankruptcy Law” means Title 11, United States Code, and any other or successor State or Federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

1.1.11 “Bankruptcy Proceeding” means any proceeding, whether voluntary or involuntary, under any Bankruptcy Law.

1.1.12 “Buyer” means RM II LLC, a California limited liability company.

1.1.13 “Buyer Parties” means, collectively, the directors, officers, members, employees and agents of the Buyer.

1.1.14 “Buyer Party” means, individually, the directors, officers, members, employees or agents of the Buyer.

1.1.15 “Buyer’s Title Notice” means a written Notice from the Buyer to both the Authority and the Escrow Agent indicating the Buyer’s acceptance of the state of the title to the Properties, as described in the Preliminary Report, or the Buyer’s disapproval of specific

matters shown in Schedule B of the Preliminary Report, as exceptions to coverage under the proposed Title Policy, describing in suitable detail the actions that the Buyer reasonably believes are indicated to obtain the Buyer's approval of the state of the title to the Properties.

1.1.16 "Buyer's Title Notice Waiver" means a written Notice from the Buyer to both the Authority and the Escrow Agent waiving the Buyer's previous disapproval in the Buyer's Title Notice of specific matters shown in Schedule B of the Preliminary Report, as exceptions to coverage under the proposed Title Policy.

1.1.17 "CEQA" means the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

1.1.18 "CEQA Document" means any Notice of Exemption, Negative Declaration (mitigated or otherwise) or any Environmental Impact Report (including any addendum, amendment, subsequent or supplemental document) required by any Government to issue any discretionary Approval required for the operation and maintenance of the Properties.

1.1.19 "City" means the City of Colton, a California municipal corporation.

1.1.20 "Claims" means any and all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action (whether in tort, contract or under statute, at law, in equity or otherwise), charges, awards, assessments, fines or penalties of any kind (including reasonable consultant and expert fees and expenses, Legal Costs of counsel, expert fees, costs of staff time and investigation costs of whatever kind or nature), and judgments, including, but not limited to, claims for: (i) injury to any Person (including death at any time resulting from that injury); (ii) loss of, injury or damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage, or destruction) regardless of where located, including the property of the Authority Parties; (iii) any workers' compensation claim or determination; (iv) any Prevailing Wage Action; or (v) any Environmental Claim.

1.1.21 "Close of Escrow" or "Closing" means the recording of an Authority Deed for each of the Properties in the official records of the County.

1.1.22 "Control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of Equity Interests, by contract or otherwise.

1.1.23 "Controlling" and "Controlled" mean exercising or having Control.

1.1.24 "County" means the County of San Bernardino, California.

1.1.25 "Default" means any Monetary Default or Non-Monetary Default.

1.1.26 "Default Interest" means interest at an annual rate equal to the lesser of: (a) ten percent (10%) per annum; or (b) the highest rate of interest, if any, that Law allows under the circumstances.

1.1.27 “Due Diligence Completion Notice” means a written Notice of the Buyer delivered to both the Authority and the Escrow Agent indicating the Buyer’s unconditional acceptance of the condition of the Properties.

1.1.28 “Due Diligence Investigations” means the Buyer’s due diligence investigations of the Properties to determine the suitability of the Properties including, without limitation, investigations of the environmental and geotechnical suitability of the Properties, as deemed appropriate in the sole discretion of the Buyer, all at the sole cost and expense of the Buyer.

1.1.29 “Effective Date” means the first date on which all of the following have occurred: (i) Buyer delivers to Authority four (4) counterpart originals of this Agreement executed by the authorized representative(s) of the Buyer; (ii) this Agreement is approved by the Authority governing body; (iii) this Agreement is executed by the authorized representative(s) of the Authority; and (iv) an original of this Agreement executed by the authorized representative(s) of the Authority has been delivered to the Buyer.

1.1.30 “Environmental Claims” means any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements and expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law.

1.1.31 “Environmental Law” means any Law regarding any of the following at, in, under, above, or upon the Properties: (a) air, environmental, ground water, or soil conditions; or (b) clean-up, control, disposal, generation, storage, release, transportation, use of, or liability or standards of conduct concerning, hazardous substances, as such term is defined by Law.

1.1.32 “Equity Interest” means all or any part of any direct or indirect equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest in a limited liability company, or other interest of an ownership or equity nature) in any entity, at any tier of ownership, that directly or indirectly owns or holds any ownership or equity interest in a Person.

1.1.33 “Escrow” means an escrow account opened with the Escrow Agent for the purpose of transferring the Properties from the Authority to the Buyer.

1.1.34 “Escrow Agent” means Trinity Escrow Inc., located at 12345 Mountain Avenue, #T, Chino, CA 91710, Attn: Tiffinny Larson, or such other Person mutually agreed upon in writing by the Authority and the Buyer.

1.1.35 “Escrow Closing Date” thirty (30) days after the Effective Date.

1.1.36 “Escrow Opening Date” means the date that Escrow is opened, which shall occur no later than fifteen (15) days after the Effective Date.

1.1.37 “Event of Default” means the occurrence of any one or more of the events identified in Section 6.1.1.

1.1.38 “Executive Director” means the Executive Director of the Authority or his or her designee or successor in function.

1.1.39 “Federal” means the government of the United States of America.

1.1.40 “FIRPTA Affidavit” means an affidavit complying with Section 1445 of the United States Internal Revenue Code.

1.1.41 “Form 593” means a California Franchise Tax Board Form 593-C.

1.1.42 “Government” means any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever for any governmental unit (Federal, State, County, district, municipal, City or otherwise) whether now or later in existence.

1.1.43 “HOA” shall mean the Homeowners Association of Rancho Med.

1.1.44 “HOA Fines” means any and all unpaid assessments, fees, charges or fines assessed on the Properties by the HOA prior to the Close of Escrow.

1.1.45 “HOA Rules” means those legally binding covenants, conditions and restrictions, and rules and regulations adopted by the HOA and applicable to the Properties.

1.1.46 “Housing Authorities Law” means the Housing Authorities Law of the State of California, codified as Health and Safety Code Section 34200 *et seq.*

1.1.47 “Indemnify” means, where this Agreement states that any Indemnitor shall “indemnify” any Indemnitee from, against, or for a particular matter, that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against any and all loss, cost, claims, liability, penalties, judgments, damages, and other injury, detriment, or expense (including Legal Costs, interest and penalties) that the Indemnitee suffers or incurs: (a) from, as a result of, or on account of the particular matter; or (b) in enforcing the Indemnitor’s indemnity obligation. “Indemnified” shall have the correlative meaning.

1.1.48 “Indemnitee” means any Person entitled to be Indemnified under the terms of this Agreement.

1.1.49 “Indemnitor” means a Party that agrees to Indemnify any other Person.

1.1.50 “Law” means all laws, ordinances, requirements, orders, proclamations, directives, rules, and regulations of any Government applicable to the Properties, in any way, including any development, use, maintenance, taxation, operation, or occupancy of, or environmental conditions affecting the Properties, or relating to any taxes, or otherwise relating to this Agreement or any Party’s rights or remedies under this Agreement, or any Transfer of any of the foregoing, whether in force on the Effective Date or passed, enacted, or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

1.1.51 “Legal Costs” of any Person means all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys’ fees, court costs and expenses and consultant and expert witness fees.

1.1.52 “Monetary Default” means any failure by either Party to pay or deposit, when and as this Agreement requires, any amount of money, or any bond or surety, whether to or with a Party or a third-party.

1.1.53 “Non-Monetary Default” means the occurrence of any of the following, except to the extent constituting a Monetary Default: (1) any failure of a Party to perform any of its obligations under this Agreement; (2) a Party’s failure to comply with any material restriction or prohibition in this Agreement; or (3) any other event or circumstance that, with passage of time or giving of Notice, or both, or neither, would constitute a Default under this Agreement.

1.1.54 “Notice” means any consent, demand, designation, election, notice, or request relating to this Agreement, including any Notice of Default. All Notices must be in writing.

1.1.55 “Notice of Affordability Restrictions” means a notice in substantially the form of Exhibit C attached to this Agreement, to be recorded against the Properties at the Close of Escrow.

1.1.56 “Notice of Default” means any Notice claiming or giving Notice of a Default or alleged Default.

1.1.57 “Notify” means give a Notice.

1.1.58 “Parties” means, collectively, the Authority and the Buyer.

1.1.59 “Party” means, individually, the Authority or the Buyer, as applicable.

1.1.60 “PCO Report” means a preliminary change of ownership report required under California Revenue and Taxation Code Section 480.3.

1.1.61 “Permitted Encumbrance” means any document required or allowed to be recorded against the Properties by the express terms of this Agreement.

1.1.62 “Permitted Exceptions” means: (i) any and all items shown in Schedule B of the Preliminary Report as exceptions to coverage under the proposed Title Policy that the Buyer does not disapprove or conditionally approve or that are otherwise accepted or consented to by the Buyer; (ii) any exceptions from coverage under the proposed Title Policy resulting from the Buyer’s activities on the Properties; (iii) any lien for non-delinquent property taxes or assessments; (iv) any Laws applicable to the Properties; (v) this Agreement; (vi) the Authority Deeds; and (vii) any other matter provided for in this Agreement.

1.1.63 “Person” means any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind.

1.1.64 “Preliminary Report” means a preliminary report issued by the Title Company in contemplation of the issuance of the Title Policy, accompanied by copies of all documents listed in Schedule B of the report, as exceptions to coverage under the proposed Title Policy.

1.1.65 “Prevailing Wage Action” means any of the following: (a) any determination by the State Department of Industrial Relations that prevailing wage rates should have been paid, but were not; (b) any determination by the State Department of Industrial Relations that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising under or regarding any failure to comply with any of California Labor Code Sections 1720 through 1781, as amended from time to time, or any Federal law regarding prevailing wages, including maintaining certified payroll records pursuant to California Labor Code Section 1776; or (d) any administrative or legal action or proceeding to recover wage amounts at law or in equity, including pursuant to California Labor Code Section 1781 or applicable Federal Law.

1.1.66 “Properties” means those certain properties located at 700 E. Washington St., Colton, California, 92324 as further described in Exhibit A-1 and depicted in Exhibit A-2 attached to this Agreement and incorporated into this Agreement by this reference.

1.1.67 “Purchase Price” means the amount of One Dollar (\$1).

1.1.68 “Record”, “recorded”, “recording” or “recordation” each mean recordation of the referenced document in the official records of the Recorder of the County.

1.1.69 “Regulatory Agreement” means that certain “Regulatory Agreement and Declaration of Restrictive Covenants, Conditions and Restrictions Restricting Use of Property for Affordable Housing (Rancho Med)” to be entered into between the Authority and Buyer at Close of Escrow, in substantially the form of Exhibit D attached to this Agreement and incorporated herein by this reference.

1.1.70 “State” means the State of California.

1.1.71 “Title Company” means First American Title Company or such other title insurance company as mutually agreed upon between the Authority and the Buyer in writing.

1.1.72 “Title Policy” means an ALTA extended coverage owner’s policy of title insurance issued by the Title Company, with coverage in the amount of the fair market value of the Properties, as determined by an appraisal conducted by Owner at Owner’s sole expense, and insuring fee title to the Properties vested in the Buyer, subject only to the Permitted Exceptions.

1.1.73 “Transfer” of any property, right or obligation means any of the following, whether by operation of law or otherwise, whether voluntary or involuntary, and whether direct or indirect: (a) any assignment, conveyance, grant, donation, hypothecation, mortgage, pledge, sale, or other transfer, whether direct or indirect, of all or any part of such property, right or obligation, or of any legal, beneficial, or equitable interest or estate in such property, right or obligation or any part of it (including the grant of any easement, lien, or other encumbrance); (b) any conversion, exchange, issuance, modification, reallocation, sale, or other

transfer of any direct or indirect Equity Interest(s) in the owner of such property, right or obligation by the holders of such Equity Interest(s); (c) any transaction described in "b" affecting any Equity Interest(s) or any other interest in such property, right or obligation or in any such owner (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the foregoing. A transaction affecting Equity Interests, as referred to in clauses "b" through "d," shall be deemed a Transfer by the Buyer even though the Buyer is not technically the transferor. A "Transfer" shall not, however, include any of the foregoing (provided that the other Party to this Agreement has received Notice of such occurrence) relating to any Equity Interest: (a) that constitutes a mere change in form of ownership with no material change in beneficial ownership and constitutes a tax-free transaction under federal income tax law and the State real estate transfer tax; (b) to member(s) of the immediate family(ies) of the transferor(s) or trusts for their benefit; (c) to any Person that, as of the Effective Date, holds an Equity Interest in the entity whose Equity Interest is being transferred, or (d) that is only a minority interest in the ownership of Buyer.

1.1.74 "Unavoidable Delay" means a delay in either Party performing any obligation required to be performed by such Party under this Agreement, except payment of money, arising from or on account of any cause whatsoever beyond the Party's reasonable control, despite such Party's reasonable diligent efforts, including industry-wide strikes, labor troubles or other union activities (but only to the extent such actions do not result from an act or omission of the Party), casualty, war, acts of terrorism or riots, earthquake, floods, unusually severe weather, delays or inaction caused by governmental entities, litigation brought against the Properties or a Party without that Party's consent, remediation of violations of Environmental Laws or other unanticipated conditions of construction. Unavoidable Delay shall not include delay caused by a Party's financial condition, illiquidity, or insolvency.

ARTICLE 2

PROPERTIES ACQUISITION AND DISPOSITION

2.1 **Purchase and Sale.** Subject to the terms and conditions set forth in this Agreement, the Authority shall sell the Properties to the Buyer and the Buyer shall purchase the Properties from the Authority. The provisions of ARTICLE 3 of this Agreement are the joint escrow instructions of the Parties to the Escrow Agent for the conduct of the Escrow. If requested by the Escrow Agent, the Buyer and the Authority shall execute the Escrow Agent's reasonable standard or general escrow instructions. Any provision in the Escrow Agent's standard or general escrow instructions that purports to exculpate the Escrow Agent from or require the Buyer or the Authority to indemnify the Escrow Agent against the Escrow Agent's negligence or willful misconduct shall be deemed "unreasonable" and shall not be included in any standard or general escrow instructions requested by the Escrow Agent. In the event of any conflict between the provisions of this Agreement and any such standard or general escrow instructions requested by the Escrow Agent, the provisions of this Agreement shall be controlling.

2.2 **Title Approval.**

2.2.1 Buyer's Title Notice. Within five (5) days after the Effective Date of this Agreement, the Authority shall request the Preliminary Report from the Title Company, with

instructions to the Title Company to deliver a copy of the Preliminary Report to the Buyer concurrent with delivery of the Preliminary Report to the Authority. Within twenty (20) days following the Buyer's receipt of the Preliminary Report, the Buyer shall deliver the Buyer's Title Notice to the Authority.

2.2.2 Failure to Deliver Buyer's Title Notice. If the Buyer fails to deliver Buyer's Title Notice to the Authority, within thirty (30) days following the Buyer's receipt of the Preliminary Report, the Buyer will be deemed to disapprove the status of title to the Properties and refuse to accept title to the Properties.

2.2.3 Authority's Title Notice Response. Within fifteen (15) days following the earlier of the Authority's receipt of Buyer's Title Notice or expiration of the time period provided in Section 2.2.2 for delivery of Buyer's Title Notice, the Authority shall serve Authority's Title Notice Response. If the Buyer's Title Notice does not disapprove or conditionally approve any matter in the Preliminary Report or the Buyer fails to deliver the Buyer's Title Notice, the Authority shall not be required to serve Authority's Title Notice Response. If the Authority does not serve Authority's Title Notice Response within fifteen (15) days following its receipt of the Buyer's Title Notice, the Authority shall be deemed to elect not to take any action in reference to the Buyer's Title Notice. If the Authority elects in Authority's Title Notice Response to take any action in reference to the Buyer's Title Notice, the Authority shall take such action, prior to the Escrow Closing Date.

2.2.4 Buyer's Title Notice Waiver. If the Authority elects or is deemed to have elected not to take any action in reference to the Buyer's Title Notice, then within seven (7) days following the earlier of (1) the Buyer's receipt of Authority's Title Notice Response or (2) the expiration of the time period provided in Section 2.2.3 for delivery of Authority's Title Notice Response, the Buyer shall either: (i) refuse to accept the title to and conveyance of the Properties, or (ii) waive its disapproval or conditional approval of any matters set forth in the Buyer's Title Notice which Authority has elected or is deemed to have elected not to address by delivering the Buyer's Title Notice Waiver to the Authority. Failure by the Buyer to timely deliver the Buyer's Title Notice Waiver, where Authority's Title Notice Response or the Authority's failure to serve Authority's Title Notice Response indicates or results in the Authority's election not to take any action in reference to the Buyer's Title Notice, will be deemed the Buyer's continued refusal to accept the title to and conveyance of the Properties, in which case either the Authority or the Buyer shall have the right to cancel the Escrow and terminate this Agreement, in their respective sole and absolute discretion, until such time (if ever) as the Buyer delivers the Buyer's Title Notice Waiver.

2.2.5 No Termination Liability. Any termination of this Agreement and cancellation of the Escrow pursuant to a right provided in this Section 2.2 shall be without liability to the other Party or any other Person. Termination shall be accomplished by delivery of a Notice of termination to both the other Party and the Escrow Agent at least seven (7) days prior to the termination date. Following issuance of a Notice of termination of this Agreement pursuant to a right provided under this Section 2.2, the Parties and the Escrow Agent shall proceed pursuant to Section 3.11. Once a Notice of termination is given pursuant to this Section 2.2, delivery of a Title Notice or Title Notice Waiver shall have no force or effect and this Agreement shall terminate in accordance with the Notice of termination.

2.3 Buyer Due Diligence.

2.3.1 License Agreement. Pursuant to a License Agreement, dated December 10, 2015, Buyer has conducted its Due Diligence Investigations on the Properties prior to the Effective Date of this Agreement and determined that Buyer shall unconditionally accept the condition of the Properties. Buyer shall deliver a Due Diligence Completion Notice to the Authority and the Escrow Agency within five (5) days of the Effective Date indicating such acceptance.

2.3.2 No Reliance. Except for the express representations and warranties of Authority set forth herein, the Buyer shall rely solely and exclusively upon the results of its Due Diligence Investigations of the Properties, including, without limitation, investigations regarding geotechnical soil conditions, compliance with all Laws related to use of the Properties by the Buyer and any other matters relevant to the condition or suitability of the Properties for residential use, as the Buyer may deem necessary or appropriate. Except for the express representations and warranties of the Authority set forth herein, the Authority makes no representation or warranty, express or implied, to the Buyer relating to the condition of the Properties or suitability of the Properties for any use by the Buyer.

2.3.3 Acceptance of Properties "AS-IS." Subject to the Authority's representations and warranties, the Buyer shall accept all conditions of the Properties, without any liability of the Authority Parties whatsoever, upon the Buyer's unconditional acceptance of the condition of the Properties indicated in its Due Diligence Completion Notice. The Buyer's delivery of its Due Diligence Completion Notice indicating the Buyer's unconditional acceptance of the condition of the Properties shall evidence the Buyer's unconditional and irrevocable acceptance of the Properties in the Properties' AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, WITHOUT WARRANTY AS TO QUALITY, CHARACTER, PERFORMANCE OR CONDITION and with full knowledge of the physical condition of the Properties, including the existence of buildings and structures on the Properties, the nature of the Authority's interest in and use of the Properties, all Laws applicable to the Properties, the Permitted Exceptions and of any and all conditions, restrictions, encumbrances and all matters of record relating to the Properties. The Buyer's delivery of its Due Diligence Completion Notice indicating the Buyer's unconditional acceptance of the condition of the Properties shall constitute the Buyer's representation and warranty to the Authority that the Buyer has received assurances acceptable to the Buyer by means independent of the Authority or any agent of the Authority of the truth of all facts material to the Buyer's acquisition of the Properties pursuant to this Agreement, and that the Properties is being acquired by the Buyer as a result of its own knowledge, inspection and investigation of the Properties and not as a result of any representation(s) made by the Authority or any employee, official, consultant or agent of the Authority relating to the condition of the Properties, unless such statement or representation is expressly and specifically set forth in this Agreement. The Authority hereby expressly and specifically disclaims any express or implied warranties regarding the Properties except as expressly set forth in this Agreement. Buyer accepts the Properties as is, including but not limited to acceptance of the existing leasehold interest of any tenants to the Properties.

2.4 **HOA Documents.** Pursuant to Civil Code section 4525 and 4530, the Authority shall provide all required HOA documents or request such documents from the HOA. Buyer shall

be solely responsible for any fees, charges or fines assessed by the HOA for the provision of any documents or information by the HOA and assessed by the HOA pursuant to Civil Code section 4530.

ARTICLE 3

JOINT ESCROW INSTRUCTIONS

3.1 **Joint Escrow Instructions.** This ARTICLE 3 shall constitute the joint escrow instructions of the Authority and the Buyer to the Escrow Agent for conducting the Escrow.

3.2 **Escrow Agent Authority.** The Authority and the Buyer authorize the Escrow Agent to:

3.2.1 Charge. Pay and charge the Authority and the Buyer for their respective shares of the applicable fees, charges and costs payable by either the Authority or the Buyer regarding the Escrow;

3.2.2 Settlement/Closing Statements. Release each Party's Escrow settlement/closing statement to the other Party; and

3.2.3 Document Recording. Record any instruments delivered for recording through the Escrow in the official records of the Recorder of the County, pursuant to the joint instructions of the Parties.

3.3 **Buyer's Conditions.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by the Buyer, the Buyer's obligation to purchase the Properties from the Authority on the Escrow Closing Date shall be subject to the satisfaction or waiver, in Buyer's sole discretion, of each of the following conditions precedent, each of which can only be waived in writing by the Buyer:

3.3.1 Title. The Buyer agrees to accept the title to and conveyance of the Properties, and the Authority agrees to convey title to the Properties, pursuant to Section 2.2; Note:

3.3.2 Due Diligence. The Buyer delivers its Due Diligence Completion Notice to both the Authority and the Escrow Agent indicating the Buyer's unconditional acceptance of the condition of the Properties;

3.3.3 Title Policy. The Title Company is, upon payment of the Title Company's standard premium for such an insurance policy, irrevocably and unconditionally committed to issue the Title Policy to the Buyer;

3.3.4 HOA Documents. Authority shall provide all documents as required by Civil Code Section 4525 or request such documents from the HOA pursuant to Civil Code Section 4530, in accordance with Section 2.4;

3.3.5 Authority Escrow Deposits. The Authority deposits all of the items into the Escrow required by Section 3.6;

3.3.6 Settlement/Closing Statement. The Buyer approves the Escrow Agent's final estimated closing/settlement statement, which approval shall not be unreasonably withheld, conditioned or delayed; and

3.3.7 Authority's Material Obligations. The Authority performs all of its material obligations required to be performed by the Authority under this Agreement prior to the Close of Escrow and all representations and warranties of Authority remain true in all material respects.

3.4 **Authority's Conditions**. Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by the Authority, the Authority's obligation to sell the Properties to the Buyer on or before the Escrow Closing Date shall be subject to the satisfaction or waiver, in Authority's sole discretion, of each of the following conditions precedent, each of which can only be waived in writing by the Authority:

3.4.1 Title. The Buyer agrees to accept the title to and conveyance of the Properties, pursuant to Section 2.2;

3.4.2 Due Diligence. The Buyer delivers its Due Diligence Completion Notice to both the Authority and the Escrow Agent indicating the Buyer's unconditional acceptance of the Properties;

3.4.3 Title Policy. The Title Company is, upon payment of the Title Company's standard premium for such insurance policy, irrevocably and unconditionally committed to issue a title policy to the Buyer insuring that fee title is vested in the Buyer and otherwise in a form acceptable to the Buyer;

3.4.4 65402 Finding. City Planning Commission has made all required findings and determinations pursuant to Government Code Section 65402 for Authority to convey the Properties to Buyer pursuant to this Agreement. Authority shall apply to the City Planning Commission for such finding within a reasonable time to allow the City Planning Commission to consider such finding prior to the reasonably anticipated Close of Escrow;

3.4.5 Buyer's Escrow Deposits. The Buyer deposits all of the items into the Escrow required by Section 3.5;

3.4.6 Settlement/Closing Statement. The Authority approves the Escrow Agent's final estimated closing/settlement statement, which approval shall not be unreasonably withheld, conditioned or delayed; and

3.4.7 Buyer's Material Obligations. The Buyer performs all of its material obligations required to be performed by the Buyer under this Agreement prior to the Close of Escrow and all representations and warranties of the Buyer remain true in all material respects.

3.5 **Buyer's Escrow Deposits**. At least one (1) business day prior to the Escrow Closing Date scheduled by the Escrow Agent in a writing delivered to both of the Parties, the Buyer shall deposit the following described funds and documents into the Escrow and, concurrently, provide a copy of each such document to the Authority:

3.5.1 Closing Funds. The Purchase Price plus any additional funds required to be deposited into the Escrow by the Buyer under the terms of this Agreement to close Escrow, all in immediately available funds;

3.5.2 PCO Report. A PCO Report executed by the authorized representative(s) of the Buyer;

3.5.3 Regulatory Agreement. The Regulatory Agreement signed by the authorized representative(s) of Buyer in recordable form;

3.5.4 Notice of Affordability Restrictions. The Notice of Affordability Restrictions executed by the authorized representative(s) of the Buyer in recordable form; and

3.5.5 Other Funds and Documents. Such other funds or documents reasonably required from the Buyer under the terms of this Agreement to close the Escrow or by the Escrow Agent in the performance of the Escrow Agent's contractual or statutory obligations regarding the Escrow.

3.6 **Authority's Escrow Deposits**. At least one (1) business day prior to the Escrow Closing Date scheduled by the Escrow Agent in a writing delivered to both of the Parties, the Authority shall deposit the following described documents into the Escrow and, concurrently, provide a copy of each such document to the Buyer:

3.6.1 Closing Funds. All funds required to be deposited into the Escrow by the Authority under the terms of this Agreement to close Escrow, all in immediately available funds;

3.6.2 Authority Deeds. An Authority Deed executed by the authorized representative(s) of the Authority in recordable form for each of the Properties;

3.6.3 HOA Documents. All HOA documents as required by Civil Code Section 4525, in accordance with Section 2.4;

3.6.4 Regulatory Agreement. The Regulatory Agreement signed by the authorized representative(s) of Authority in recordable form;

3.6.5 Notice of Affordability Restrictions. The Notice of Affordability Restrictions executed by the authorized representative(s) of the Authority in recordable form;

3.6.6 FIRPTA Affidavit. The FIRPTA Affidavit completed and executed by the authorized representative(s) of the Authority;

3.6.7 Form 593. A Form 593 executed by the authorized representative(s) of the Authority; and

3.6.8 Other Funds and Documents. Such other funds or documents reasonably required from the Authority under the terms of this Agreement to close the Escrow or by the

Escrow Agent in the performance of the Escrow Agent's contractual or statutory obligations regarding the Escrow are to be deducted from the proceeds of the sale.

3.7 Close of Escrow Procedure. When each of the Buyer's Escrow deposits, as set forth in Section 3.5, are deposited into the Escrow, the Escrow Agent shall request confirmation in writing from both the Buyer and the Authority that each of their respective conditions to the Close of Escrow, as set forth in Section 3.3 and Section 3.4, respectively, are satisfied or waived. Upon the Escrow Agent's receipt of written confirmation from both the Authority and the Buyer that each of their respective conditions to the Close of Escrow are either satisfied or waived, which confirmation shall not be unreasonably withheld, conditioned or delayed, the Escrow Agent shall schedule the Escrow Closing Date by written Notice to both Parties and, thereafter, shall close the Escrow by doing all of the following:

3.7.1 Recordation and Distribution of Documents. Escrow Agent shall file the following documents with the office of the Recorder of the County for recording in the official records of the County, in the following order, at the Close of Escrow: (i) an Authority Deed for each of the Properties, (ii) the Notice of Affordability Restrictions, (iii) the Regulatory Agreement; and (iv) any other documents to be recorded through the Escrow upon the joint instructions of the Parties. The Escrow Agent shall deliver conformed copies of all documents filed for recording in the official records of the County and originals or copies of all other documents delivered through the Escrow to the Authority, the Buyer and any other Person designated in the joint escrow instructions of the Parties to receive an original or conformed copy of each such document. Each copy of a document filed for recording shall show all recording information. The Parties intend and agree that this Section 3.7.1 shall establish the relative priorities of the documents to be recorded in the official records of the County through the Escrow, by providing for recordation of senior interests prior in time to junior interests, as provided in this Section 3.7.1;

3.7.2 PCO Report. File the PCO Report with the office of the Recorder of the County;

3.7.3 FIRPTA Affidavit. File the FIRPTA Affidavit with the United States Internal Revenue Service;

3.7.4 Form 593. File the Form 593 with the State of California Franchise Tax Board;

3.7.5 Title Policy. Obtain and deliver the Title Policy to the Buyer;

3.7.6 Funds. Deliver the remaining balance of the Purchase Price and all other funds held by the Escrow Agent for the account of the Authority to the Authority, less the Authority's share of the Escrow closing costs, and less any other charges to the account of the Authority, and return all remaining funds held by the Escrow Agent for the account of the Buyer to the Buyer, less the Buyer's share of the Escrow closing costs, and less any other charges to the account of the Buyer.

3.7.7 Report to IRS. Following the Close of Escrow and prior to the last date on which such report is required to be filed with the Internal Revenue Service, if such report is

required pursuant to Section 6045(e) of the Internal Revenue Code, the Escrow Agent shall report the gross proceeds of the purchase and sale of the Properties to the Internal Revenue Service on Form 1099-B, Form W-9 or such other form(s) as may be specified by the Internal Revenue Service pursuant to Section 6045(e) or the associated Federal regulations. Upon the filing of such reporting form with the Internal Revenue Service, the Escrow Agent shall deliver a copy of the filed form to both the Authority and the Buyer.

3.8 Close of Escrow. Subject to satisfaction or waiver of the conditions to the Close of Escrow set forth herein, the Close of Escrow shall occur on or before the Escrow Closing Date. The Parties may mutually agree to change the Escrow Closing Date by joint written instruction to the Escrow Agent. If for any reason the Close of Escrow has not occurred on or before the Escrow Closing Date, then any Party not then in default of this Agreement may cancel the Escrow and terminate this Agreement, without liability to the other Party or any other Person for such cancellation and termination, by delivering written Notice of termination to both the other Party and the Escrow Agent. Thereafter, the Parties and the Escrow Agent shall proceed pursuant to Section 3.10 and Section 3.11. Without limiting the right of either Party to cancel the Escrow and terminate this Agreement, pursuant to the first sentence of this Section 3.8, if the Escrow does not close on or before the Escrow Closing Date, and neither Party has exercised its contractual right to cancel the Escrow and terminate this Agreement before the first date on which the Escrow Agent is in a position to close the Escrow, then the Escrow shall close as soon as reasonably possible following the first date on which the Escrow Agent is in a position to close the Escrow, pursuant to the terms and conditions of this Agreement. Neither Party shall act or fail to act for the purpose of permitting or causing any condition to fail. Each Party shall reasonably cooperate with the other Party, upon the written request of the other Party, in the other Party's efforts to perform its closing obligations and to cause the closing conditions to be satisfied.

3.9 Escrow Closing Costs, Taxes and Title Policy Premium. The Authority and the Buyer shall each pay one-half (1/2) of the Escrow fees and such other costs as the Escrow Agent may charge for the conduct of the Escrow. The Authority shall pay the premium charged by the Title Company for the Title Policy, exclusive of any endorsements or other supplements to the coverage of the Title Policy that may be requested by the Buyer, and any documentary transfer tax relating to the conveyance of the Properties from the Authority to the Buyer through the Escrow that is due at the Close of Escrow. The Buyer shall pay any and all recording fees, and the cost of any endorsements or supplements to the coverage of the Title Policy requested by the Buyer. The Escrow Agent shall Notify both the Buyer and the Authority of the costs to be borne by each of them at the Close of Escrow by delivering the Escrow Agent's estimated closing/settlement statement to both the Authority and the Buyer, at least four (4) business days prior to the Escrow Closing Date.

3.10 Escrow Cancellation Charges. If the Escrow fails to close due to an Event of Default attributable to the Authority, the Authority shall pay all customary and reasonable cancellation charges regarding cancellation of the Escrow and the Title Policy order, if any. If the Escrow fails to close due to an Event of Default attributable to the Buyer, the Buyer shall pay all customary and reasonable cancellation charges regarding cancellation of the Escrow and the Title Policy order, if any. If the Escrow fails to close for any reason other than an Event of Default attributable to either the Buyer or the Authority, the Buyer and the Authority shall each pay one-half (1/2) of any customary and reasonable cancellation charges regarding cancellation of the

Escrow and the Title Policy order, if any. Upon cancellation of the Escrow, this Agreement shall automatically terminate. Upon termination, the Authority shall be relieved of any obligation under this Agreement to sell or convey the Properties to the Buyer, and Buyer shall be relieved of any obligation under this Agreement to purchase the Properties from Authority. Cancellation of Escrow and termination of this Agreement shall be without any liability of either Party to the other Party or to any other Person.

3.11 Escrow Cancellation. If the Escrow is cancelled and this Agreement is terminated pursuant to a contractual right granted to a Party in this Agreement to cancel the Escrow and terminate this Agreement, other than due to an Event of Default attributable to the other Party, the Parties shall pay any associated costs in accordance with Section 3.10 and do each of the following:

3.11.1 Cancellation Instructions. The Parties shall, within three (3) business days following receipt of the Escrow Agent's written request, execute any reasonable Escrow cancellation instructions requested by the Escrow Agent; and

3.11.2 Return of Funds and Documents. Within seven (7) days following receipt by the Parties of a settlement statement from the Escrow Agent of cancellation charges regarding cancellation of the Escrow and the Title Policy order, if any: (i) the Buyer or the Escrow Agent, respectively, shall return to the Authority any documents previously delivered by the Authority to the Buyer or the Escrow Agent regarding the Escrow, (ii) the Authority or the Escrow Agent, respectively, shall return to the Buyer all documents previously delivered by the Buyer to the Authority or the Escrow Agent regarding the Escrow; (iii) the Escrow Agent and the Authority, as applicable, shall return to the Buyer any funds deposited into the Escrow by the Buyer, less the Buyer's share of any customary and reasonable cancellation charges regarding cancellation of the Escrow and the Title Policy order, if any, in accordance with Section 3.10; and (iv) the Escrow Agent shall return to the Authority any funds deposited into the Escrow by the Authority, less the Authority's share of any customary and reasonable cancellation charges regarding cancellation of the Escrow and the Title Policy order, if any, in accordance with Section 3.10.

3.11.3 Escrow Notices. All notices and communications from the Escrow Agent to the Parties shall be given in the manner provided in Section 7.7.

3.12 Condemnation. If any of the Properties or portion thereof, or any interest in any or all of the Properties or portion thereof becomes the subject of any eminent domain proceeding prior to Close of Escrow, including the filing of any notice of intended condemnation or proceedings in the nature of eminent domain commenced by any Government, Authority shall immediately give Notice to Buyer of such occurrence and this Agreement shall terminate on the giving of such Notice.

ARTICLE 4

USE OF THE PROPERTIES

4.1 Correction of Deficiencies. In conformance with the terms and conditions of this Agreement and the Regulatory Agreement, Buyer covenants and agrees for itself, its assigns and all voluntary and involuntary successors in interest to the Properties or any part thereof, that Buyer

shall ensure that the Properties or any portion thereof are brought into compliance with the HOA Rules and applicable Law in accordance with the Regulatory Agreement. In the event Buyer, or its successors or assigns, fails to perform the provisions of this Section 4.1 as required herein, such failure shall constitute a Default.

4.2 PREVAILING WAGES.

4.2.1 RESPONSIBILITY. BUYER AGREES WITH AUTHORITY THAT BUYER SHALL ASSUME ANY AND ALL RESPONSIBILITY AND BE SOLELY RESPONSIBLE FOR DETERMINING WHETHER OR NOT LABORERS EMPLOYED RELATIVE TO ANY WORK ON THE PROPERTIES MUST BE PAID THE PREVAILING PER DIEM WAGE RATE FOR THEIR LABOR CLASSIFICATION, AS DETERMINED BY THE STATE, PURSUANT TO LABOR CODE SECTIONS 1720, *ET SEQ.*, OR PURSUANT TO APPLICABLE FEDERAL LAW.

4.2.2 WAIVERS AND RELEASES. BUYER, ON BEHALF OF ITSELF, ITS SUCCESSORS, AND ASSIGNS, WAIVES AND RELEASES AUTHORITY FROM ANY RIGHT OF ACTION THAT MAY BE AVAILABLE TO ANY OF THEM PURSUANT TO STATE LABOR CODE SECTION 1781 OR APPLICABLE FEDERAL LAW. RELATIVE TO THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 5.6.2, BUYER ACKNOWLEDGES THE PROTECTIONS OF CIVIL CODE SECTION 1542, WHICH READS AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4.2.3 INITIALS. BY INITIALING BELOW, BUYER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF SECTION 4.2.2:



Initials of Authorized
Buyer Representative(s)

4.2.4 INDEMNITY. ADDITIONALLY, BUYER SHALL INDEMNIFY AUTHORITY, PURSUANT TO SECTIONS 6.5 AND 6.6, AGAINST ANY CLAIMS PURSUANT TO STATE LABOR CODE SECTION 1781 OR ANY OTHER LAW REQUIRING PAYMENT OF MINIMUM OR PREVAILING WAGE AMOUNTS ARISING FROM THIS AGREEMENT OR BUYER'S USE OF THE PROPERTIES.

4.3 **Maintenance**. Buyer covenants and agrees for itself, its successors, and assigns to maintain Properties in compliance with all applicable HOA Rules and the Regulatory Agreement, and in a good condition free from any accumulation of debris or waste material, subject to normal maintenance and repair work, and shall maintain in a neat, orderly, healthy and good condition the

landscaping at the Properties. In the event Buyer, or its successors or assigns, fails to perform the maintenance as required herein in this Section 4.3, such failure shall constitute a Default.

4.4 Buyer Payment of Costs and Fees. Except as otherwise specifically provided in this Agreement, upon conveyance of the Properties to Buyer at the Close of Escrow, Buyer and the Authority agree that Buyer shall be solely financially responsible for and the Authority shall not provide any financial assistance to the Buyer in connection with any of the following (i) all costs and fees associated with the Properties; (ii) any and all maintenance of the Properties, including maintenance of all grounds, landscaped areas, fences, roadways, sidewalks, utility and water services, and structures on the Properties; (iii) all repair work associated with bringing the Properties into compliance with the HOA Rules and applicable Law; (iv) all payment or settlement with the HOA of any outstanding fines imposed by the HOA on all or any of Properties or portions thereof; (v) any costs or expenses associated with lease, sale or Transfer of the Properties; and (vi) any other costs associated with the maintenance and management of the Properties, including design work, construction, labor, materials, fees, permits, applications, surety bonds, demolition, environmental reviews and other expenses.

ARTICLE 5

SPECIAL COVENANTS OF THE BUYER

5.1 Covenant to Pay Taxes. The Buyer, for itself and its successors and assigns, covenants and agrees to pay all property tax bills, if any, with respect to the Properties and all improvements on or to the Properties on or before the last day for the timely payment of each property tax installment on each December 10 and April 10 during such time period and to timely pay all supplemental tax bills regarding the Properties issued by the County. The Buyer further covenants and agrees to provide to the Authority, upon the Authority's written request, (i) a true and correct copy of all property tax assessment notices, property tax bills and property tax assessment correspondence by and between the Buyer and the County regarding the Properties and all improvements on or to the Properties, with respect to the preceding fiscal year of the County and (ii) cancelled checks issued by the Buyer in payment of all property tax payments made to the County regarding the Properties and all improvements on or to the Properties, with respect to the preceding fiscal year of the County. Authority acknowledges that Buyer may seek an exemption from property tax assessment from the County. Authority agrees to cooperate in any effort to receive an exemption from property taxes.

5.2 Affordable Housing Covenants. Concurrently with the execution of this Agreement, Buyer shall enter into the Regulatory Agreement pursuant to which Buyer covenants and agrees for itself, its successors, and assigns that Properties will be maintained and managed in conformity with the terms and conditions of this Agreement, the Regulatory Agreement, and all applicable Laws and conditions of each Government.

5.3 Obligation to Refrain from Discrimination. The Buyer covenants and agrees for itself, its successors, its assigns and every successor-in-interest to all or any portion of the Properties, that there shall be no discrimination against or segregation of any Person, or group of Persons, on account of gender, sexual orientation, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or

enjoyment of the Properties nor shall the Buyer, itself or any Person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of purchasers, the Buyers, lessees, sub-Buyers, sub-lessees or vendees of the Properties.

5.4 Form of Non-discrimination and Non-segregation Clauses. The Buyer covenants and agrees for itself, its successors, its assigns, and every successor-in-interest to all or any portion of the Properties, that the Buyer, such successors and such assigns shall refrain from restricting the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of all or any portion of the Properties on the basis of gender, sexual orientation, marital status, race, color, religion, creed, ancestry or national origin of any Person. All deeds, leases or contracts pertaining to the Properties or any part thereof shall contain or be subject to substantially the following non-discrimination or non-segregation covenants:

5.4.1 In deeds: "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any Person or group of persons on account of race, color, creed, religion, gender, sexual orientation, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any Person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Buyers, lessees, sub-Buyers, sub-lessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

5.4.2 In leases: "The Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any Person or group of persons, on account of race, color, creed, religion, gender, sexual orientation, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee itself, or any Person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of the Buyers, lessees, sub-lessees, sub-Buyers, or vendees in the premises herein leased."

5.4.3 In contracts: "There shall be no discrimination against or segregation of any Person or group of persons on account of race, color, creed, religion, gender, sexual orientation, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed or leased, nor shall the transferee or any Person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of the Buyers, lessees, sub-lessees, sub-Buyers, or vendees of the premises herein transferred." The foregoing provision shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

5.5 Survival and Enforcement of Special Covenants.

5.5.1 Covenants Running with the Land. Each of the special covenants set forth in this ARTICLE 5 touch and concern the Properties and constitute covenants running with the Properties and binding upon successive owners of the Properties for the term of the Regulatory Agreement. Each such owner of the Properties shall be responsible for compliance with such covenants only during the period of its ownership and each such owner shall have no further liability for any breach of any of those covenants occurring after such owner has transferred all of its interest in the Properties to a successor owner.

5.5.2 Survival. Each such special covenant shall survive the Close of Escrow, execution and recordation of the Authority Deeds and issuance and any other document related to conveyance of the Properties, for the duration of the Regulatory Agreement.

5.5.3 Enforcement. These special covenants may be enforced by the Authority. The Buyer irrevocably stipulates and agrees that breach of any of the special covenants set forth in this ARTICLE 5 will result in great and irreparable damage to the Authority, will violate the public policy and applicable law, and will result in damages to the Authority that are either impracticable or extremely difficult to quantify. Accordingly, upon the breach of any special covenant set forth in this ARTICLE 5, the Authority may institute an action for injunctive relief and/or for damages regarding such breach.

ARTICLE 6

DEFAULTS, REMEDIES AND TERMINATION

6.1 Defaults.

6.1.1 Events of Default. In addition to other acts or omissions of a Party that may legally or equitably constitute a Default or breach of this Agreement, the occurrence of any of the following specific events shall constitute an "Event of Default" under this Agreement:

6.1.1.1 *Monetary Default.* If a Monetary Default occurs and continues for seven (7) business days after Notice from the non-defaulting Party, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such payment.

6.1.1.2 *Bankruptcy or Insolvency.* If the Buyer ceases to pay its debts as they become due or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any Bankruptcy Proceeding (except an involuntary Bankruptcy Proceeding dismissed within ninety (90) days after commencement), or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of the Buyer's assets or the Buyer's interest in this Agreement (unless such appointment, attachment, execution, or other seizure was involuntary and is contested with diligence and continuity and vacated and discharged within ninety (90) days).

6.1.1.3 *Breach of Representation or Warranty.* Any representation, warranty or disclosure made by a Party regarding this Agreement or the Properties is materially

false or misleading, whether or not such representation or disclosure appears in this Agreement, and such inaccuracy or error is not corrected within thirty (30) days after notice thereof provide such cure removes or rectifies any harm or potential suffered by the other Party.

6.1.1.4 *Non-Monetary Default.* If any Non-Monetary Default, other than those specifically addressed in Sections 6.1.1.2 and 6.1.1.3, occurs and the Party in Default does not cure such Non-Monetary Default within thirty (30) days after Notice from the non-defaulting Party describing the Default in reasonable detail, or, in the case of a Non-Monetary Default that cannot with reasonable due diligence be cured within thirty (30) days from such Notice, if the Party in Default shall not (i) within thirty (30) days after the delivery of the Notice, advise the non-defaulting Party of the defaulting Party's intention to take all reasonable steps to cure such Non-Monetary Default; (ii) duly commence such cure within such period, and then diligently prosecute such cure to completion; and (iii) complete such cure within a reasonable time under the circumstances.

6.2 BUYER RIGHT TO SPECIFIC PERFORMANCE AND WAIVER OF OTHER REMEDIES. IN THE EVENT OF DEFAULT BY THE AUTHORITY PRIOR TO THE CLOSE OF ESCROW, THE BUYER'S SOLE RECOURSE SHALL BE TO ENFORCE SPECIFIC PERFORMANCE OF THIS AGREEMENT. BUYER WAIVES ANY RIGHT TO RECOVER ANY OTHER SUMS FROM THE AUTHORITY ARISING FROM AN EVENT OF DEFAULT BY THE AUTHORITY, PRIOR TO THE CLOSE OF ESCROW. THE BUYER ACKNOWLEDGES THE PROTECTIONS OF CIVIL CODE SECTION 1542 RELATIVE TO THE WAIVER AND RELEASE CONTAINED IN THIS SECTION 6.2, WHICH CIVIL CODE SECTION READS AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

6.2.1 BY INITIALING BELOW, THE BUYER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION 6.2.



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6.3 Legal Actions. Following the Close of Escrow, any Party may institute legal action to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other remedy available to that Party under this Agreement, at law or in equity regarding any Default, except as otherwise prohibited by this Agreement. Any such legal action must be instituted in the Superior Court of the State in and for the County, in any other appropriate court within the County, or in the United States District Court with jurisdiction in the County.

6.4 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties set forth in this Agreement are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.5 Indemnification.

6.5.1 Obligations. The Authority shall Indemnify the Buyer Parties and the Buyer shall Indemnify the Authority Parties against any wrongful intentional act or negligence of the Indemnitor in the performance of this Agreement. The Buyer shall also Indemnify the Authority Parties against any and all of the following: (i) any Application made by or at Buyer's request; (ii) any agreements that Buyer (or anyone claiming by or through Buyer) makes with a Third Person regarding any or all of the Properties; (iii) any workers compensation claim or determination relating to any employee of the Buyer Parties or their contractors; (iv) any Prevailing Wage Action related to this Agreement or the Properties; (v) any Environmental Claim attributable to any action or failure to act by the Buyer Parties; (vi) any use, occupancy, management or maintenance of any or all of the Properties by Buyer, both prior to Close of Escrow or for the term of the Regulatory Agreement; and (vii) any Claim against the Authority made by the HOA including, but not limited to, any Claims for unpaid HOA Fines. Notwithstanding anything to the contrary in this Agreement, no Indemnitor shall be required to Indemnify any Indemnitee to the extent of the Indemnitee's wrongful intentional acts or negligence.

6.5.2 Limitation on Liability of the Authority. Following the Close of Escrow, the Buyer is and shall be solely responsible for the operation of the Properties and the Authority shall not be liable for any charges or fines, or any injury or damage to any property (of the Buyer or any other Person) or to any Person occurring on or about the Properties, except to the extent caused by the Authority's wrongful intentional act or negligence.

6.5.3 Strict Liability. The indemnification obligations of an Indemnitor shall apply regardless of whether the source of the claim for indemnification is a claim of liability without fault or strict liability imposed or sought to be imposed on one or more Indemnitees.

6.5.4 Survival of Indemnification and Defense Obligations. The indemnity and defense obligations under this Agreement shall survive the expiration or earlier termination of this Agreement, until all claims against any of the Indemnitees involving any of the indemnified matters are fully, finally, absolutely and completely barred by applicable statutes of limitations.

6.5.5 Independent Duty to Defend. The duty to defend under this Agreement is separate and independent of the duty to Indemnify. The duty to defend includes claims for which an Indemnitee may be liable without fault or strictly liable. The duty to defend applies immediately upon notice of a Claim, regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of the Indemnitor or the Indemnitee have been determined. The duty to defend applies immediately, regardless of whether the Indemnitee has paid any amounts or incurred any detriment arising out of or relating (directly or indirectly) to any claims. It is the express intention of the Parties that an Indemnitee be entitled to obtain summary adjudication or

summary judgment regarding an Indemnitor's duty to defend the Indemnatee, at any stage of any claim or suit, within the scope of the Indemnitor's indemnity obligations under this Agreement.

6.6 Indemnification Procedures. Wherever this Agreement requires any Indemnitor to Indemnify any Indemnatee:

6.6.1 Prompt Notice. The Indemnatee shall promptly Notify the Indemnitor of any claim. To the extent, and only to the extent, that the Indemnatee fails to give prompt Notice of a Claim and such failure prejudices the Indemnitor in providing indemnity for such claim, the Indemnitor shall be relieved of its indemnity obligations for such claim.

6.6.2 Selection of Counsel. The Indemnitor shall select counsel reasonably acceptable to the Indemnatee. Counsel to Indemnitor's insurance carrier that is providing coverage for a claim shall be deemed reasonably satisfactory. Even though the Indemnitor shall defend the action, Indemnatee may, at its option and its own expense, engage separate counsel to advise it regarding the claim and its defense. The Indemnatee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall consult with the Indemnatee's separate counsel. The Indemnitor and its counsel shall, however, fully control the defense, except to the extent that the Indemnatee waives its rights to indemnity and defense for such claim.

6.6.3 Cooperation. The Indemnatee shall reasonably cooperate with the Indemnitor's defense of the Indemnatee, provided the Indemnitor reimburses the Indemnatee's reasonable actual out of pocket expenses (including Legal Costs) of such cooperation.

6.6.4 Settlement. The Indemnitor may, with the Indemnatee's consent, not to be unreasonably withheld, settle a claim. The Indemnatee's consent shall not be required for any settlement by which all of the following occur: (i) the Indemnitor procures (by payment, settlement, or otherwise) a release of the Indemnatee from the subject claim(s) by which the Indemnatee need not make any payment to the claimant; (ii) neither the Indemnatee nor the Indemnitor on behalf of the Indemnatee admits liability; (iii) the continued effectiveness of this Agreement is not jeopardized in any way; and (iv) the Indemnatee's interest in the Properties is not jeopardized in any way.

6.7 Authority Power of Termination Regarding Properties.

6.7.1 Reservation. The Authority hereby reserves a power of termination pursuant to Civil Code Sections 885.010, *et seq.* and Health and Safety Code Section 33438, exercisable by the Authority, in its sole and absolute discretion, to terminate the fee interest of the Buyer in the Properties and/or any improvements to the Properties and revert such fee title in the Authority and take possession of all or any portion of such real property and improvements, upon the occurrence of the following events, prior to the expiration of the Regulatory Agreement.

6.7.1.1 A Default or breach of any term or provision of this Agreement or the Regulatory Agreement, and fail to cure such Default after written notice thereof from the Authority within the cure period set forth in Section 6.1.1 above; or

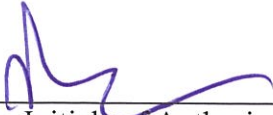
6.7.1.2 contrary to the provisions of ARTICLE 7, Transfer or suffer any involuntary Transfer of the Properties or any part thereof in violation of this Agreement and fail to cure such breach within the cure period provided in Section 6.1.1 above.

6.7.2 Notice. The power reserved in this Section 6.7 shall be exercisable by delivering written Notice specifying the uncured Default attributable to the Buyer triggering the Authority's exercise of its power of termination, at least thirty (30) calendar days in advance of the effective date of termination. Such termination shall be withdrawn if the alleged Default has been cured or remedied prior to expiration of that thirty (30) day period.

6.7.3 Grant Deed. Upon the Authority's exercise of its power of termination pursuant to this Section 6.7, the Buyer or its successors or assigns shall convey fee title to the Properties and all improvements on or to the Properties to the Authority by grant deed, in accordance with Civil Code Section 1109, as such code section may hereafter, from time to time, be amended, renumbered, replaced or substituted. Such conveyance shall be duly acknowledged by the Buyer and a notary in a manner suitable for recordation. The Authority may enforce its rights pursuant to this Section 6.7 by means of any legal or equitable action permitted under applicable law and filed in any court of competent jurisdiction.


6.7.4 Distribution of Resale Proceeds. Upon the revesting in the Authority of title to the Properties, whether by grant deed or court decree, the Authority shall exercise its reasonable good faith efforts to enter into an affordable housing agreement similar to this Agreement as soon and in such manner as the Authority shall, in its sole and absolute discretion, find feasible and consistent with the objectives of the Housing Authorities Law, with a qualified and responsible Person or Persons (as determined by the Authority in its sole and absolute discretion) who will assume the Buyer's obligations under this Agreement and the Regulatory Agreement, or such other replacement development acceptable to the Authority, in its sole and absolute discretion, consistent with the Housing Authorities Law. Any funds, if any, received by the Authority pursuant to a new affordable housing agreement entered into as described in this Section 6.7 shall be the sole property of Authority.

6.7.5 RIGHT OF RE-ENTRY. IMMEDIATELY FOLLOWING THE RIGHT TO CURE PERIOD SPECIFIED IN SECTION 6.7.1, THE AUTHORITY, ITS EMPLOYEES AND AGENTS SHALL HAVE THE RIGHT TO REENTER AND TAKE POSSESSION OF ALL OR ANY PORTION OF THE PROPERTIES AND ANY IMPROVEMENTS ON OR TO THE PROPERTIES, WITHOUT FURTHER NOTICE OR COMPENSATION TO THE BUYER EXCEPT AS EXPRESSLY PROVIDED HEREIN. BY INITIALING BELOW, THE BUYER HEREBY EXPRESSLY WAIVES, TO THE MAXIMUM EXTENT ALLOWED BY LAW, ANY AND ALL RIGHTS THAT THE BUYER MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTION 791 AND CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1162, AS THOSE STATUTES MAY, FROM TIME TO TIME, BE AMENDED, REPLACED, RENUMBERED OR SUBSTITUTED, OR UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT TO THE EXTENT INCONSISTENT WITH THIS PROVISION.



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6.7.6 WAIVERS. THE BUYER ACKNOWLEDGES AND AGREES THAT THE AUTHORITY'S EXERCISE OF ITS POWER OF TERMINATION AND RIGHT OF REENTRY PURSUANT TO THIS SECTION 6.7 MAY WORK A FORFEITURE OF THE ESTATE IN THE PROPERTIES CONVEYED TO THE BUYER THROUGH THE AUTHORITY DEEDS. THE BUYER HEREBY EXPRESSLY WAIVES, TO THE MAXIMUM EXTENT ALLOWED BY LAW, ANY AND ALL EQUITABLE AND LEGAL DEFENSES THAT THE BUYER MAY HAVE TO SUCH FORFEITURE, INCLUDING, BUT NOT LIMITED TO, THE DEFENSES OF LACHES, WAIVER, ESTOPPEL, SUBSTANTIAL PERFORMANCE OR COMPENSABLE DAMAGES. THE BUYER FURTHER EXPRESSLY WAIVES, TO THE MAXIMUM EXTENT ALLOWED BY LAW, ANY AND ALL RIGHTS AND DEFENSES THAT THE BUYER MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTION 3275 OR ANY OTHER STATUTE OR COMMON LAW PRINCIPLE OF SIMILAR EFFECT TO THE EXTENT INCONSISTENT WITH THIS PROVISION. THE BUYER ACKNOWLEDGES THAT THE TERMS AND CONDITIONS OF THIS AGREEMENT REFLECT THE POSSIBILITY OF FORFEITURE BY VIRTUE OF THE EXERCISE OF THE AUTHORITY'S POWER OF TERMINATION PROVIDED IN THIS SECTION 6.7 AND FURTHER ACKNOWLEDGE THAT IT HAS RECEIVED INDEPENDENT AND ADEQUATE CONSIDERATION FOR ITS WAIVER AND RELINQUISHMENT OF RIGHTS AND REMEDIES PURSUANT TO THIS SECTION 6.7.



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ARTICLE 7

GENERAL PROVISIONS

7.1 **Incorporation of Recitals.** The Recitals of fact set forth preceding this Agreement are true and correct and are incorporated into this Agreement in their entirety by this reference.

7.2 **City Not a Party.** The City is not a Party to this Agreement.

7.3 **Restrictions on Change in Management or Control of the Buyer, Assignment and Transfer.**

7.3.1 Restrictions. The Buyer acknowledges that the qualifications and identity of the Buyer are of particular importance and concern to the Authority. The Buyer further recognizes and acknowledges that the Authority has relied and is relying on the specific qualifications and identity of the Buyer in entering into this Agreement with the Buyer and, as a consequence, Transfers are permitted only as expressly provided in this Agreement. The Buyer represents to the Authority that it has not made and agrees that it will not create or suffer to be made or created, any Transfer, other than a Permitted Encumbrance either voluntarily,

involuntarily or by operation of law, without the prior written approval of the Authority, which may be given, withheld or conditioned in the Authority's sole and absolute discretion until the expiration of the Regulatory Agreement. Any Transfer made in contravention of this Section 7.3 shall be voidable at the election of the Authority. The Buyer agrees that the restrictions on Transfers set forth in this Section 7.3 are reasonable. Following a Transfer pursuant to this Agreement with Authority consent and the assumption by the transferee of the obligations transferred, the transferor shall be released from any further liability thereafter arising with respect to the obligations transferred.

7.3.2 Transfers Permitted Without Authority Approval. Notwithstanding anything to the contrary in Section 7.3.1, Buyer shall have the right, without Authority consent, to engage in any of the following Transfers referred to in Section 7.3.1, (i) Transfers to an Affiliate of Buyer, (ii) Transfers in connection with the conveyance or dedication of a portion of the Properties to the Authority or other appropriate governmental or quasi-governmental agency or entity in connection with the development thereof as required by this Agreement, or the granting of easements to public or quasi-public entities in connection with said development, or (iii) an assignment for financing purposes otherwise permitted by this Agreement, and any Transfer resulting from a foreclosure or deed-in-lieu of foreclosure related to any such permitted financing. Notwithstanding the foregoing, in the event of an assignment by Buyer under clause (i) not requiring Authority's approval, the assignment shall not become effective until an assignment and assumption agreement providing for the assignee's assumption of the Buyer's obligations hereunder in a form reasonably acceptable to Authority is executed. In the event of an assignment by Buyer to an affiliated entity, the assigning Buyer shall remain liable for all obligations under this Agreement until the Close of Escrow, at which time the assigning Buyer shall be released from any further liability or obligation under this Agreement.

7.3.3 Delivery of Transfer Documents. All instruments and other legal documents proposed to effect any proposed Transfer requiring Authority consent, as applicable, shall be submitted to the Authority, as applicable for review, at least thirty-five (35) calendar days prior to the proposed date of the Transfer, and the written approval, disapproval or conditions of the Authority shall be provided to the Buyer, within thirty (30) calendar days following the Authority's receipt of the Buyer's request. The Buyer agrees to reimburse the Authority for all reasonable costs and expenses incurred by the Authority in connection with its review of each request from the Buyer for approval of a Transfer, including, without limitation, Legal Costs incurred in the Authority's review of a Transfer request from the Buyer. If such request is denied, Authority, as applicable, shall state the reasons for such disapproval in its notice of denial of Buyer's request.

7.4 Legal Challenges. The Buyer acknowledges that the Authority is a "public entity" and/or a "public agency" as defined under applicable California law. Therefore, the Authority must satisfy the requirements of certain California statutes relating to the actions of public entities, including, without limitation, CEQA. Also, as a public entity, the Authority's action in approving this Agreement may be subject to proceedings to challenge or invalidate this Agreement or mandamus. The Buyer assumes the risk of delays and damages that may result to the Buyer from any third-party legal actions related to the Authority's approval of this Agreement or pursuit of the activities contemplated by this Agreement, even in the event that an error, omission or abuse of discretion by the Authority is determined to have occurred. If a third party files a legal action

regarding the Authority's approval of this Agreement or the pursuit of the activities contemplated by this Agreement, the Authority may terminate this Agreement on sixty (60) days advance written Notice to the Buyer of the Authority's intent, as applicable, to terminate this Agreement, referencing this Section 7.4, without any further obligation to perform the terms of this Agreement and without any liability to the Buyer or any other Person resulting from such termination, unless the Buyer unconditionally agrees in writing to indemnify and defend the Authority with legal counsel reasonably acceptable to the Authority against such third-party legal action, within thirty (30) calendar days following the date of the Authority's Notice of intent to terminate this Agreement, including without limitation paying all Legal Costs, monetary awards, sanctions, attorney fee awards, expert witness and consulting fees, and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action; provided, that, in that event Buyer shall have the right to control the defense of that action and shall have the right, upon not less than thirty (30) days' notice to Authority to cease further funding of costs with respect to such action (in which event Authority shall again have the termination rights provided above). Any such written defense and indemnity agreement between the Authority and the Buyer must be in a separate writing and reasonably acceptable to the Authority in both form and substance. Nothing contained in this Section 7.4 shall be deemed or construed to be an express or implied admission that the Authority may be liable to the Buyer or any other Person for damages or other relief alleged regarding any alleged or established failure of the Authority to comply with any Law. If the Authority and the Buyer have not entered into a written defense and indemnity agreement, pursuant to this Section 7.4, within thirty (30) calendar days following the date of the Authority's notice of intent to terminate this Agreement, then this Agreement shall terminate, without further Notice or action by either Party, on the fortieth (40th) day following the date of the Authority's notice of intent to terminate this Agreement.

7.5 Buyer's Representations and Warranties. Buyer and each signatory executing this Agreement on behalf of Buyer represents and warrants, to the best of its knowledge, that:

7.5.1 Buyer has all requisite power and authority to carry out its business as now and whenever conducted and to enter into and perform its obligations under this Agreement;

7.5.2 By proper action of Buyer, Buyer's signatories have been duly authorized to execute and deliver this Agreement;

7.5.3 The execution of this Agreement by Buyer does not violate any provision of any other agreement to which Buyer is a party;

7.5.4 Except as may be specifically set forth in this Agreement, no approvals or consents not heretofore obtained by Buyer are necessary in connection with the execution of this Agreement by Buyer or with the performance by Buyer of its obligations hereunder;

7.5.5 Buyer does not have any material contingent obligations or any material contractual agreements which could materially adversely affect the ability of Buyer to carry out its obligations as set forth in this Agreement;

7.5.6 There are no material legal proceedings pending or, to Buyer's and such signatories' best knowledge, threatened, to which Buyer is or may be made a party or to which any

of its property is or may become subject that could materially adversely affect the ability of Buyer to carry out its obligations hereunder;

7.5.7 There is no action or legal or administrative proceeding pending or, to Buyer's and such signatories' best knowledge, threatened, looking toward the dissolution or liquidation of Buyer; and

7.5.8 Buyer's entry into this Agreement and the performance of Buyer's obligations under this Agreement do not constitute a violation of any state or federal statute or judicial decision to which Buyer is subject.

7.5.9 Authority's Reliance on Buyer's Representations and Warranties. The representations and warranties set forth in this Agreement are material consideration to Authority, and Buyer acknowledges that Authority is relying upon the representations set forth above in undertaking Authority's obligations set forth in this Agreement.

7.5.10 Buyer's Actual Current Knowledge. The phrase "to the best of Buyer's knowledge," the "Buyer's best knowledge" or any similar phrase means, and is limited to, the actual current knowledge of Neal L. Grabowski as of the date of the making of the representation or warranty without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

7.6 Implementation.

7.6.1 Authority Implementation. The Authority shall implement this Agreement through its Executive Director. The Executive Director is hereby authorized by the Authority to issue approvals, interpretations, waivers and enter into certain amendments to this Agreement on behalf of the Authority, to the extent that any such action(s) does/do not increase the obligations or liabilities of the Authority. All other actions shall require the consideration and approval of the Authority governing body. Nothing in this Section 7.6 shall restrict the submission to the Authority governing body of any matter within the Executive Director's authority under this Section 7.6, in the Executive Director's sole and absolute discretion, to obtain the Authority governing body's express and specific authorization on such matter. The specific intent of this Section 7.6 is to authorize certain actions on behalf of the Authority by the Executive Director, but not to require that such actions be taken by the Executive Director, without further consideration by the Authority governing body.

7.7 Notices, Demands and Communications Between the Parties.

7.7.1 Notices. Any and all Notices submitted by either Party to the other Party pursuant to or as required by this Agreement shall be proper, if in writing and transmitted to the principal office of the Authority or the Buyer, as applicable, set forth in Section 7.7.2, by one or more of the following methods: (i) messenger for immediate Personal delivery, (ii) a nationally recognized overnight (one-night) delivery service (i.e., Federal Express, United Parcel Service, etc.) or (iii) registered or certified United States Mail, postage prepaid, return receipt requested. Such Notices may be sent in the same manner to such other addresses as either Party may designate from time to time, by Notice. Any Notice shall be deemed to be received by the addressee,

regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is delivered by personal delivery, on the date of delivery on any day by a nationally recognized overnight courier service (or when delivery has been attempted twice, as evidenced by the written report of the courier service) or four (4) calendar days after it is deposited with the United States Postal Service for delivery, as provided in this Section 7.7.1. Any notice delivered on a weekend or holiday shall be deemed delivered on the next business day. Rejection, other refusal to accept or the inability to deliver a Notice because of a changed address of which no Notice was given or other action by a Person to whom Notice is sent, shall be deemed receipt of the Notice.

7.7.2 Addresses. The following are the authorized addresses for the submission of Notices to the Parties, as of the Effective Date:

To the Buyer: RM II LLC
c/o Neal L. Grabowski
8780 19th Street, No. 373
Alta Loma, CA 91701
Fax: 909-981-2798

To the Authority: Colton Housing Authority
650 N. La Cadena Drive
Colton, CA 92324
Fax: 909-370-5183
Attn: Executive Director

7.8 Warranty Against Payment of Consideration for Agreement. To Buyer's actual knowledge, the Buyer represents and warrants that: (i) the Buyer has not employed or retained any Person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of the Buyer and the normal costs of conducting business and the costs of professional services such as attorneys and brokers' commissions payable in connection with the development and performance of this Agreement, and (ii) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by the Buyer or any of its agents, employees or representatives to any elected or appointed official or employee of the Authority in an attempt to secure this Agreement or favorable terms or conditions for this Agreement in violation of applicable law. Breach of the representations or warranties of this Section 7.8 shall constitute a material breach of this Agreement except to the extent a breach pursuant to this Section 7.8 constitutes a violation of the Govt. Code Section 1090 and thereby invalidates this Agreement.

7.9 Relationship of Parties. The Parties each understand and agree that the Authority and the Buyer are independent contracting entities and do not intend by this Agreement to create any partnership, joint venture, or similar business arrangement, relationship or association between them.

7.10 Survival of Agreement. All of the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or following expiration or termination of this Agreement, until any such dispute is finally and

completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Agreement relating to dispute resolution and limitations on damages or remedies shall survive any expiration or termination of this Agreement.

7.11 Conflict of Interest. No member, official or employee of the Authority having any conflict of interest, direct or indirect, related to this Agreement or the Properties shall participate in any decision relating to this Agreement. Except as otherwise disclosed to the other Party in writing, the Parties represent and warrant that they do not have actual knowledge of any such conflict of interest.

7.12 Non-liability of Officials, Employees and Agents. No Authority Party shall be personally liable to the Buyer, or any successor in interest of the Buyer, in the event of any Default or breach by the Authority, as applicable, under this Agreement or for any amount that may become due to the Buyer or to its successor, or on any obligations under the terms or conditions of this Agreement, except as may arise from the negligence or willful intentional acts of such Authority Party.

7.13 Calculation of Time Periods. Unless otherwise specified, all references to time periods in this Agreement measured in days shall be to consecutive calendar days, all references to time periods in this Agreement measured in months shall be to consecutive calendar months and all references to time periods in this Agreement measured in years shall be to consecutive calendar years. Any reference to business days in this Agreement shall mean and refer to consecutive business days of the Authority.

7.14 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. If the date for performance of any action required by this Agreement falls on a weekend or State of California or national holiday, the date for performance of that action shall be extended to the next business day. Except as otherwise expressly provided herein, where any consent, approval or authorization is required from another Party, such consent, approval or authorization shall not be unreasonably withheld, conditioned or delayed.


7.15 Governing Law and Venue. The Laws of the State shall govern the interpretation and enforcement of this Agreement, without application of conflicts of laws principles. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the City of Colton. Venue shall be in San Bernardino County.

7.16 **Attorney Fees and Costs.** For the purposes of this Agreement, all references to reasonable attorneys' fees and costs in reference to the Authority are intended to include the salaries, benefits and costs of the City Attorney, and the lawyers employed in the Office of the City Attorney who provide legal services regarding the particular matter, pro-rated to an hourly rate, in addition to any fees and costs of outside counsel to the Authority, as applicable.

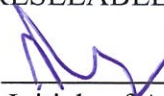
7.17 **Unavoidable Delay; Extension of Time of Performance.**

7.17.1 Notice. Subject to any specific provisions of this Agreement expressly stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay, performance by either Party under this Agreement shall not be deemed, or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within thirty (30) days after such Party knows of any such Unavoidable Delay; and (b) within five (5) days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The extension of time for an Unavoidable Delay shall commence on the date of receipt of written Notice of the occurrence of the Unavoidable Delay by the Party not claiming an extension of time to perform due to such Unavoidable Delay and shall continue until the end of the condition causing the Unavoidable Delay. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise its commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

7.17.2 ASSUMPTION OF ECONOMIC RISKS. EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS AGREEMENT SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF EACH AND EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS AGREEMENT. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR MARKET DEMAND/CONDITIONS AND WAIVE, TO THE GREATEST LEGAL EXTENT, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES. THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE EFFECTIVE DATE.



Initials of Authorized
Representative(s) of Authority



Initials of Authorized
Representative(s) of Buyer

7.18 Inspection of Books and Records. The Authority shall have the right at all reasonable times and upon not less than ten (10) business days' notice, at the Authority's sole cost and expense, to inspect, examine and copy the books, records and other papers of the Buyer pertaining to the Properties to the extent relevant to the Buyer's obligations under this Agreement. The Buyer shall also have the right at all reasonable times, at the Buyer's sole cost and expense, to inspect the books and records of the Authority pertaining to the Properties, to the extent relevant to the Buyer's obligations under this Agreement. The Buyer will use commercially reasonable efforts to cause all of the Buyer's contractors, subcontractors and materialmen to cooperate with the Authority to enable such examination.

7.19 Real Estate Commissions. The Parties each represent and warrant to the other that it has not engaged any broker or finder in this transaction and that no broker or finder is entitled to any commission or finder's fee in connection with this transaction as a result of its actions or agreement, and Parties shall indemnify, defend and hold harmless each other from any claim to any such commission or fee resulting from any action or agreement of or by the indemnifying party.

7.20 Binding on Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

7.21 No Other Representations or Warranties. Except as expressly set forth in this Agreement, no Party makes any representation or warranty material to this Agreement to any other Party.

7.22 Tax Consequences. Buyer acknowledges that Authority has made no representation concerning the Tax consequences of this Agreement and agrees that Buyer shall be solely responsible for any liability, costs, and expenses connected in any way with any tax consequences experienced by the Buyer related to this Agreement or the Close of Escrow.

7.23 No Third-Party Beneficiaries. Except as expressly provided herein, nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third Person to any Party or give any third Person any right of subrogation or action over or against any Party. The Parties agree that facsimile signatures on this Agreement shall be legally binding and that each Party is entitled and authorized to rely on the facsimile signature of the other hereon as if it were an original signature.

7.24 Execution in Counterparts. This Agreement may be executed in multiple counterpart originals, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document. The Parties agree that facsimile signatures on this Agreement shall be legally binding and that each Party is entitled and authorized to rely on the facsimile signature of the other hereon as if it were an original signature.

7.25 Entire Agreement.

7.25.1 Integrated Agreement. This Agreement includes thirty-four (34) pages, one (1) signature page and four (4) Exhibits that constitute the entire understanding and agreement of the Parties regarding the Properties and the other subjects addressed in this Agreement. This Agreement integrates all of the terms and conditions mentioned in this Agreement or incidental to this Agreement, and supersedes all negotiations or previous agreements between the Parties with respect to the conveyance of the Properties and the other subjects addressed in this Agreement.

7.25.2 Waivers Must be in Writing. All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the authorized representative(s) of the Authority and the Buyer.

7.26 Time Declared to be of the Essence. As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence.

7.27 No Waiver. Failure to insist on any one occasion upon strict compliance with any term, covenant, condition, restriction or agreement contained in this Agreement shall not be deemed a waiver of such term, covenant, or condition, restriction or agreement, nor shall any waiver or relinquishment of any rights or powers under this Agreement at any one or more times, be deemed a waiver or relinquishment of such right or power at any other time or times.

7.28 Further Acts. Each of the Parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the Parties and carry out the terms of this Agreement.

7.29 Severability. Should any part, term, portion or provision of this Agreement, or the application thereof to any person or circumstance be held to be illegal, invalid or in conflict with any Applicable Governmental Restrictions, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.


[Signatures on following page]

**SIGNATURE PAGE
TO
AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

IN WITNESS WHEREOF, the Authority and the Buyer have executed this Affordable Housing Agreement (Rancho Med) by and through the signatures of their duly authorized representative(s) set forth below:

AUTHORITY:

COLTON HOUSING AUTHORITY,
a public agency, corporate and politic

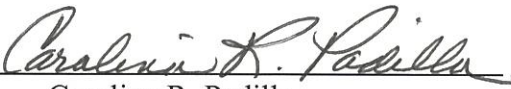
By: 
William R. Smith
Executive Director

BUYER:

RM II LLC, a California limited liability
company

By: 
Neal L. Grabowski
Managing Member

Attest:

By: 
Carolina R. Padilla
Authority Secretary

Approved as to form:

BEST BEST & KRIEGER LLP

By: 
Authority Counsel

**EXHIBIT A-1
TO
AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

LEGAL DESCRIPTION OF PROPERTIES

San Bernardino County Assessor's Parcel Numbers ("APN") 275-311-01, 25, 30, 43, 62, 69, 78, 81, 82, 96; 275-312-02, 04, 11, 52, 68, 71, 74, 76; 275-313-05, 22, 28, 32, 56, 68, 80.

**EXHIBIT A-2
TO
AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

MAP OF PROPERTIES

(Attached behind this cover page)

EXHIBIT A-2 TO AFFORDABLE HOUSING AGREEMENT

MAP OF PROPERTIES

Sale of Colton Housing Authority-owned Lots at Rancho Mediterranean

(Identified in shaded yellow)



**EXHIBIT B
TO
AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

FORM OF AUTHORITY DEED

(Attached behind this cover page)

Exhibit B
Form of Authority Deed

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Neal L. Grabowski
8780 19th Street, No. 373
Alta Loma, CA 91701

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED
(Rancho Med Space No. ____)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
COLTON HOUSING AUTHORITY, a public body, corporate and politic ("Grantor"),
does hereby grant to

RM II LLC, a California limited liability company ("Grantee"),

that certain real property in the City of Colton, County of San Bernardino, State of California, specifically described in Exhibit "1" attached to this Grant Deed ("Property") and made a part of this Grant Deed by this reference,

SUBJECT TO the that certain Affordable Housing Agreement (Rancho Med), dated March 15, 2016, entered into between Grantor and Grantee ("AFA"), and the covenants and retained and reserved rights and interests in the Property in favor of Grantor set forth in the AFA that shall run with the land of the Property and bind Grantee and all successive owners of all or any portion of the Property, including:

Reservation. The Authority hereby reserves a power of termination pursuant to Civil Code Sections 885.010, *et seq.* and Health and Safety Code Section 33438, exercisable by the Authority, in its sole and absolute discretion, to terminate the fee interest of the Buyer in the Properties and/or any improvements to the Properties and revest such fee title in the Authority and take possession of all or any portion of such real property and improvements, upon the occurrence of the following events, prior to the expiration of the Regulatory Agreement.

A Default or breach of any term or provision of this Agreement or the Regulatory Agreement, and fail to cure such Default after written notice thereof from the Authority within the cure period set forth in Section 6.1.1 above; or

contrary to the provisions of ARTICLE 7, Transfer or suffer any involuntary Transfer of the Properties or any part thereof in violation of this Agreement and fail to cure such breach within the cure period provided in Section 6.1.1 above.

INCORPORATION OF AHA DEFINITIONS. Any terms indicated to be defined terms by initial capitalization in this Grant Deed that are not specifically defined in this Grant Deed shall have the meaning ascribed to the same term, respectively, in the AHA.

Dated: _____

COLTON HOUSING AUTHORITY, a
public body, corporate and politic

By: _____
William R. Smith
Executive Director

EXHIBIT "1"
TO
GRANT DEED
(Rancho Med Space No. ____)

Property Legal Description

[insert legal description of only specific property applicable to this grant deed]

**EXHIBIT C
TO
AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

NOTICE OF AFFORDABILITY RESTRICTIONS

(Attached behind this cover page)

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Colton Housing Authority
650 N. La Cadena Drive
Colton, CA 92324
Attn: Executive Director

APN _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY
(Rancho Med)**

NOTICE: Restrictions have been recorded restricting the price and terms at which the real property described below in this Notice ("**Property**") may be sold or rented. These affordability restrictions may limit the sales price or rents of the Property to an amount that is less than the fair market value of such amounts for the Property and limit the persons and households who are permitted to purchase or rent the Property to persons or households with certain income levels.

Recorded Document Containing Affordability Restrictions: Declaration of Community Redevelopment Affordable Housing Covenants, Conditions and Restrictions (Rancho Med) ("**Affordability Restrictions**") recorded (check one):

as Document No. _____, official records of the County of San Bernardino, California, on _____; or

concurrently with this Notice, official records of the County of San Bernardino, California.

Property Legal Description: See Exhibit 1 attached to this Notice.

Property Street Address(es): _____, Colton, California.

Property Assessor's Parcel Number(s): _____.

Affordability Restrictions Summary (check as applicable):

- € The Affordability Restrictions restrict the amount of rent that may be charged for rental housing units on the Property, as follows: *the Properties are restricted for rent to individuals or families with an income that does not exceed the maximum allowable income of persons and families of moderate income for the County of San Bernardino, California, pursuant to Health and Safety Code Section 50093 and associated regulations of the California Department of Housing and Community Development, at an "affordable*

Exhibit C
Notice of Affordability Restrictions

housing cost” for such individuals or families, as defined in Health and Safety Code Section 50052.5 and accompanying regulations of the California Department of Housing and Community Development.

- € The Affordability Restrictions restrict the sales price that may be charged for the sale of the Properties, as follows: *the Properties are restricted for sale to individuals or families with an income that does not exceed the maximum allowable income of persons and families of moderate income for the County of San Bernardino, California, pursuant to Health and Safety Code Section 50093 and associated regulations of the California Department of Housing and Community Development, at an “affordable housing cost” for such individuals or families, as defined in Health and Safety Code Section 50052.5 and accompanying regulations of the California Department of Housing and Community Development.*
- € The Affordability Restrictions restrict the income level of tenants or purchasers of the Properties, as follows: *the Properties are restricted for sale to individuals or families with an income that does not exceed the maximum allowable income of persons and families of moderate income for the County of San Bernardino, California, pursuant to Health and Safety Code Section 50093 and associated regulations of the California Department of Housing and Community Development.*

The Affordability Restrictions commence(d) on _____ and terminate on _____ (a time period of fifty-five (55) years)

This Notice may not contain all of the terms and conditions of the Affordability Restrictions affecting the Property. Interested persons should obtain and read a copy of the Affordability Restrictions to determine the extent of the Affordability Restrictions applicable to the Property.

Dated: _____

COLTON HOUSING AUTHORITY, a
public body, corporate and politic

By: _____
William R. Smith
Executive Director

**Exhibit 1
To
Notice of Affordability Restrictions
(Rancho Med)**

Property Legal Description

[TO BE PROVIDED]

**EXHIBIT D
TO
AFFORDABLE HOUSING AGREEMENT
(Rancho Med)**

REGULATORY AGREEMENT

(Attached behind this cover page)

Exhibit D
Regulatory Agreement

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EXHIBIT B
REGULATORY AGREEMENT

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Colton Housing Authority
650 N. La Cadena Drive
Colton, CA 92324
Attn: Executive Director

Space above line for Recorder's use only
Exempt from Recording Fees pursuant to Govt. Code § 27383

**REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Rancho Med)**

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING (Rancho Med) ("**Regulatory Agreement**") is dated as of March 15, 2016 for reference purposes only, and is entered into by and between the Colton Housing Authority, a California public body, corporate and politic ("**Authority**"), and RM II LLC, a California limited liability company ("**Owner**"). Authority and Owner are sometimes referred to in this Regulatory Agreement individually as a "**Party**" or collectively as the "**Parties**." Authority and Owner enter into this Regulatory Agreement with reference to the following recited facts (each a "**Recital**"):

RECITALS

A. Pursuant to that certain Affordable Housing Agreement (Rancho Med), dated March 15, 2016 ("**AHA**"), between Authority and Owner, Owner purchased from Authority that certain real property consisting of 25 lots, as more particularly described in Exhibit A-1 and depicted in Exhibit A-2, which are attached hereto and incorporated herein by this reference ("**Properties**"), in Rancho Meditterrania Mobile Home Estates, a mobile home park located at 700 E. Washington St., Colton, CA 92324 San Bernardino County Assessor's Parcel Numbers ("**APN**") 275-311-01, 25, 30, 43, 62, 69, 78, 81, 82, 96; 275-312-02, 04, 11, 52, 68, 71, 74, 76; 275-313-05, 22, 28, 32, 56, 68, 80 ("**Rancho Med**"). Pursuant to the AHA, Owner agreed to operate the Properties as affordable housing.

B. This Regulatory Agreement shall, subject to the terms and conditions set forth herein, restrict the use of the Properties until the passage of fifty-five (55) years following the Effective Date to ensure that the Properties shall, at all times until expiration of such fifty-five (55) year period, either be occupied or reserved for occupancy by a Qualified Household at an Affordable Price, or if sold shall be sold to a Qualified Household at an Affordable Price.

C. Owner is willing to enter into this Regulatory Agreement, and to impose the

conditions, covenants, restrictions and agreements set forth in this Regulatory Agreement upon the ownership and operation of the Properties that will bind the Properties, Owner, and Owner's successors and assigns, to assure Authority that the Properties shall be retained as affordable housing for the purpose of increasing and improving the supply of affordable housing in the City of Colton and the surrounding communities.

D. The purpose of this Regulatory Agreement is to create such conditions, covenants, restrictions, reservations, agreements, liens, servitudes and charges upon the Properties and subject to which each and every part of the Properties shall be developed, occupied, owned, maintained, held, leased, rented, sold and conveyed.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION AND THE MUTUAL PROMISES AND COVENANTS OF THE PARTIES SET FORTH IN THIS REGULATORY AGREEMENT, AUTHORITY AND OWNER AGREE AS FOLLOWS:

TERMS

1. **DEFINED TERMS.** As used in this Regulatory Agreement, the following words, phrases and terms shall have the meaning as provided in the initial paragraph of this Regulatory Agreement, the Recitals or as follows, unless the specific context of usage of a particular word, phrase or term may otherwise require:

1.1 **Affordable Price.** Affordable Price means:

1.1.1 With respect to the Units that are occupied or reserved for occupancy on a leasehold basis, Affordable Price shall mean the maximum rent for "moderate income households" as defined in California Health and Safety Code Section 50053 and accompanying regulations of the California Department of Housing and Community Development, as such law or regulations may hereafter be amended, replaced or renumbered from time-to-time, with allowance for utilities, as such allowance may be established by the County.

1.1.2 With respect to the Units that are sold, Affordable Price shall mean "affordable housing cost" for "moderate income households" as defined in California Health and Safety Code Section 50052.5 and accompanying regulations of the California Department of Housing and Community Development, as such law or regulations may hereafter be amended, replaced or renumbered from time-to-time.

1.2 **AMI.** The area median income for San Bernardino County, as determined by and published by the California Department of Housing and Community Development (HCD) published in Title 25, Section 6932 of the California Code of Regulations, as amended from time to time or if no longer determined by HCD, then as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.

1.3 **Annual Report.** A report in substantially the form of Exhibit C attached to this Regulatory Agreement or in such other form as may be reasonably required by Authority.

1.4 **Applicant.** An individual or family that completes and submits an application for occupancy of a Unit as a Qualified Household.

1.5 **Application.** Any agreement, application, certificate, document, or submission (or amendment of any of the foregoing) necessary or appropriate for the Properties, including any application for any building permit, certificate of occupancy, utility service or hookup, easement, covenant, condition, restriction, subdivision, or such other instrument as Owner may reasonably request for the Properties.

1.6 **Authority.** The Colton Housing Authority, a public body, corporate and politic, and its successors and assigns.

1.7 **Available.** When a Unit is held available for occupancy by a Qualified Household. A Unit shall be considered to be held available for occupancy by a Qualified Household, until occupied or reoccupied by a Qualified Household, provided that Owner is exercising bona fide good faith efforts to let or sell the Unit to a Qualified Household.

1.8 **Bankruptcy Proceeding.** Any proceeding, whether voluntary or involuntary, under Title 11, United States Code, and any other or successor California or Federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

1.9 **City.** The City of Colton, a California municipal corporation.

1.10 **Claim.** Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind.

1.11 **CPI.** The United States Department of Labor, Bureau of Labor Statistics "Consumer Price Index" for all Urban Consumers (CPI-U) published for Riverside-San Bernardino-Ontario, California, with a base of 1982-1984 = 100, or a successor index. If the CPI ceases to be published, with no successor index, then the Parties shall reasonably agree upon a reasonable substitute index. The CPI for any date means the CPI last published before the calendar month that includes such date.

1.12 **Default.** The occurrence of any one or more of the following:

1.12.1 *Monetary Default.* Any failure by a Party to pay or deposit, when and as this Regulatory Agreement requires, any amount of money, any bond or surety or evidence of any insurance coverage required to be provided under this Regulatory Agreement, whether to or with the non-defaulting Party or a Third Person, that continues for ten (10) calendar days after Notice from the non-defaulting Party, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such payment;

1.12.2 *Reporting Default.* If Owner fails to deliver any Annual Report as and when required in Section 2.6.5 or fails or refuses to allow and cooperate with any Authority audit of Records in accordance with Section 2.8, each after ten (10) calendar days' Notice of such failure;

1.12.3 *Bankruptcy or Insolvency.* Owner admits in writing that it is unable to pay its debts as they become due or becomes subject to any Bankruptcy Proceeding (except an

involuntary Bankruptcy Proceeding dismissed within sixty (60) days after commencement), or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Owner's assets or Owner's interest in this Regulatory Agreement (unless such appointment, attachment, execution, or other seizure was involuntary, and is contested with diligence and continuity and vacated and discharged within sixty (60) days);

1.12.4 *Transfer.* The occurrence of a Transfer, whether voluntarily or involuntarily or by operation of Law, in violation of the terms and conditions of this Regulatory Agreement or the AHA;

1.12.5 *Non-Monetary Default.* Any Non-Monetary Default, other than those specifically addressed in Sections 1.12.2, 1.12.3 or 1.12.4, that is not cured within thirty (30) days after Notice to the Party alleged to be in Default describing the Non-Monetary Default in reasonable detail, or, in the case of a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) days after the effective date of such Notice, if the Party alleged to be in Default does not do all of the following: (a) within thirty (30) days after Notice of such Non-Monetary Default, advise the other Party of the intention of the Party alleged to be in Default to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such period, and then diligently prosecute such cure to completion; and (c) complete such cure within a reasonable time under the circumstances. A "non-monetary default" includes a Party's: (a) failure to perform any of its obligations under this Regulatory Agreement; (b) failure to comply with any affirmative or negative covenant or material restriction or prohibition in this Regulatory Agreement or the AHA, excepting any such failure constituting a Monetary Default; or (c) any other event or circumstance that, with the passage of time or giving of Notice, or both, or neither, would constitute a breach of this Regulatory Agreement.

1.13 **Default Interest.** Interest at an annual rate equal to the lesser of: (a) eight percent (8%) per annum; or (b) the highest rate of interest, if any, that Law allows under the circumstances.

1.14 **Executive Director.** The Executive Director of the Colton Housing Authority or his/her designee.

1.15 **HOA Rules.** Those legally binding covenants, conditions and restrictions, and rules and regulations adopted by the HOA and applicable to the Properties, as such regulations may hereafter be amended, replaced or renumbered from time-to-time.

1.16 **Income Certification Form.** A certification in substantially the form of Exhibit B attached to this Regulatory Agreement or in such other form as may be reasonably required by Authority.

1.17 **Law.** Every law, ordinance, requirement, order, proclamation, directive, rule, and regulation of any government applicable to the Properties, in any way, including any development, use, maintenance, taxation, operation, or occupancy of, or environmental conditions affecting the Properties, or relating to any taxes, or otherwise relating to this Regulatory Agreement or any Party's rights, obligations or remedies under this Regulatory Agreement, or any

Transfer of any of the foregoing, whether in force on the date of this Regulatory Agreement or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption. "Law" shall include any HOA Rules.

1.18 **Legal Costs.** In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs and expenses, and consultant and expert witness fees and expenses.

1.19 **Liability Insurance.** Commercial general liability insurance against claims for bodily injury, personal injury, death or property damage occurring upon, in, or about the Properties or adjoining streets or passageways, at least as broad an Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of One Million Dollars (\$1,000,000) for any one occurrence and which may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Properties or the general aggregate limit shall be twice the required minimum liability limit for any one occurrence.

1.20 **Notice.** Any consent, demand, designation, election, notice, or request relating to this Regulatory Agreement. All Notices must be in writing.

1.21 **Owner.** RM II LLC, a California limited liability company.

1.22 **Person.** Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization or other entity of any kind.

1.23 **Prevailing Wage Action.** Any of the following: (a) any determination by the California Department of Industrial Relations that prevailing wage rates should have been paid, but were not; (b) any determination by the California Department of Industrial Relations that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising from any failure to comply with any of California Labor Code Sections 1720 through 1781, as amended from time to time, regarding prevailing wages, including maintaining certified payroll records pursuant to California Labor Code Section 1776; or (d) any administrative or legal action or proceeding to recover wage amounts at law or in equity, including pursuant to California Labor Code Section 1781.

1.24 **Properties.** That certain real property located at 700 E. Washington St., Colton, California, 92324 as further described in Exhibit A-1 and depicted in Exhibit A-2 attached to this Agreement and incorporated into this Agreement by this reference.

1.25 **Property Insurance.** Insurance providing coverage for the Properties against loss, damage, or destruction by fire and other hazards encompassed under the broadest form of property insurance coverage then customarily used for like properties in the County (except earthquake or war risk) from time to time, in an amount equal to one hundred percent (100%) of the full replacement value (without deduction for depreciation) of the Properties (excluding excavations and foundations) and in any event sufficient to avoid co-insurance, with "ordinance or law"

coverage. Such insurance may contain a deductible clause not exceeding Ten Thousand Dollars (\$10,000).

1.26 **Qualified Household.** An individual or family that qualifies as a moderate income household, as defined in California Health and Safety Code Section 50053 for leased Units, California Health and Safety Code Section 50052.5 for purchased Units, and accompanying regulations of the California Department of Housing and Community Development, as such law or regulations may hereafter be amended, replaced or renumbered from time-to-time.

1.27 **Records.** All books, statements, contracts and other records of Owner or any Affiliate relating in any way to the acquisition, construction, use, occupancy or operation of the Properties, including Income Certification Forms completed by applicants or tenants of the Properties, Annual Reports, accounting of Properties revenues, and accounting of Properties expenses.

1.28 **Term.** The period of time beginning on the date of recordation of this Regulatory Agreement and ending on the fifty-fifth (55th) anniversary thereafter.

1.29 **Third Person.** Any Person that is not a Party, an Affiliate of a Party, or an elected official, officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.30 **Transfer.** With respect to any property, right or obligation, any of the following, whether by operation of law or otherwise, whether voluntary or involuntary, and whether direct or indirect:

1.30.1 Any total or partial sale, assignment, conveyance, trust, power, or transfer in any other mode or form, by Owner of more than a 49% interest in Owner's interest in this Regulatory Agreement, the Properties or a series of such sales, assignments and the like that, in the aggregate, result in a disposition of more than a 49% interest in Owner's interest in this Regulatory Agreement, the Properties, even if Owner is not technically the transferor; or

1.30.2 Any merger, consolidation, sale or lease of all or substantially all of the assets of Owner or a series of such sales, assignments and the like that, in the aggregate, result in a disposition of more than a 49% interest of all or substantially all of the assets of Owner; or

1.30.3 Any Property Transfer; or

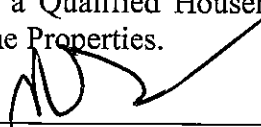
1.30.4 The recordation of any deed of trust, mortgage, lien or similar encumbrance against all or any portion of the Properties.

A "Transfer" shall not include any sale, transfer, assignment or conveyance of the Properties that is approved by the Authority or is expressly permitted by the terms of this Regulatory Agreement or the AHA.

1.31 **Unit.** Any residential lot of the Properties, which shall be restricted by Owner for either rent or purchase by a Qualified Household at an Affordable Price, in accordance with the terms and conditions of the Regulatory Agreement.

2. **AFFORDABLE HOUSING COVENANTS AND RESTRICTIONS**

2.1 Owner Acknowledgment of Potential Impact of Regulatory Agreement. Owner acknowledges and agrees that this Regulatory Agreement imposes certain covenants, conditions and restrictions on the use and occupancy of the Properties during the Term that may result in some of the Units being vacant until a Qualified Household can be located and that may not constitute the highest and best use of the Properties.



Initials of Authorized
Owner Representative(s)

2.2 Agreement to Record. Owner agrees that Authority may record this Regulatory Agreement against the Properties in the official records of the Recorder of the San Bernardino County, California.

2.3 Reservation of Properties for Affordable Housing. Owner covenants and agrees to reserve and restrict the Properties for residential occupancy by individuals or families who, at the time of initial occupancy or purchase of a Unit and continuously thereafter (subject to the other provisions of this Regulatory Agreement), until the end of the Term, are a Qualified Household. Owner covenants that each Unit shall be occupied or Available for occupancy by a Qualified Household at an Affordable Price on a continuous basis throughout the Term. The Units shall be allocated as follows:

2.3.1 All existing occupants of the Properties as of the Effective Date shall have the right to either: (a) purchase the Unit from Owner at an Affordable Price, which right shall be available to that occupant at any time during the Term of this Regulatory Agreement, subject to the default or termination by that occupant of the occupant's leasehold interest in that Unit; or (b) enter into a leasehold agreement with Owner for the continued lease of the Unit based on either the Affordable Price for that occupant or the occupant's rental rate as of the Effective Date, whichever is lower. In the event that an existing occupant as of the Effective Date does not qualify to purchase or lease their Unit at an Affordable Price, the existing occupant has the option to (i) purchase their Unit at that Unit's fair market value, as determined by an appraiser mutually agreed upon by Owner and the existing occupant or, if Owner and the existing occupant cannot agree on an appraiser, by an appraiser chosen by Authority; or (ii) continue to lease their Unit at their existing rent, which may be increased annually based on the CPI.

2.3.2 All Units that are vacant as of the Effective Date, or that are vacated during the Term, shall be either sold or leased to Qualified Households.

2.4 Affordable Residential Properties Restrictive Covenant. Owner covenants that it shall own, manage and operate, or cause the management and operation of, the Properties to provide residential housing available only to Qualified Households at an Affordable Price and for

no other purposes, in accordance with this Regulatory Agreement. No Unit will, at any time, be leased or rented for use as a hotel, motel, time share, dormitory, rooming house, business address, or for occupancy as a private home rental.

2.5 **Abandonment.** Owner shall not abandon or surrender the operation of all or any part of the Properties during the Term, except due to material casualty or condemnation, with the exception of any Unit that is sold to a Qualified Household at an Affordable Price.

2.6 **Affordable Price.** The monthly rent charged to and paid by a Qualified Household for the occupancy of a Unit may never exceed an Affordable Price applicable to such Qualified Household. For owner-occupants, the sale price charged to and paid by a Qualified Household for the purchase of a Unit may not exceed an Affordable Price applicable to such Qualified Household.

2.6.1 **Rent Increases.** Rent for Units may be increased only once per calendar year, based on changes in AMI; provided that the rent for each Unit must never exceed an Affordable Price for the Unit.

2.6.2 **Determination of Household Income.** Determination of Qualified Household income shall be made by Owner at the time of initial application of an Applicant. At the time of initial application, Owner shall require an Applicant to complete the Income Certification Form and certify the accuracy of the information provided on such form. On or before January 1st of each calendar year during the Term and within sixty (60) days following the expiration of the Term, Owner shall require each Qualified Household occupying a Unit to recertify the Qualified Household's income on the Income Certification Form. Owner shall make a good faith effort to verify the accuracy of income information provided in any Income Certification Form by an Applicant for occupancy of a Unit or by a Qualified Household occupying a Unit, by taking one or more of the following steps, as reasonably required or indicated: (1) obtain an income tax return and copy of each W2 Wage and Earnings Statement for the most recently concluded income tax year; (2) conduct a credit reporting agency or similar search; (3) obtain an income verification form from the Applicant's or the Qualified Household's current employer(s); (4) obtain an income verification form from the United States Social Security Administration and/or the California Department of Social Services, if the Applicant or the Qualified Household receives assistance from either of such agencies; or (5) if the Applicant or a Qualified Household is unemployed and has no such income tax return, obtain another form of independent verification. For purposes of this Section 2.6.2, Owner may conclusively rely upon the evidence of the age of the occupant(s) of a Unit as presented in a valid California Driver's License, other form of identification issued by the State of California or the United States Government, which includes a date of birth. All such verification information shall only be obtained by Owner after obtaining the Applicant's or the Qualified Household's written consent for the release of such information to Owner. Failure to consent in writing to the release of such income verification information to Owner may disqualify an Applicant for occupancy of a Unit or be grounds for termination of Qualified Household's occupancy of a Unit.

2.6.3 Owner shall maintain on file all Income Certification Forms completed by Applicants and Qualified Households that occupied or are occupying Units in accordance with Section 2.8.1 for a period of no less than one (1) year.

2.6.4 Owner and each Qualified Household occupying a Unit shall permit Authority to conduct inspections of the Properties and each Unit, from time-to-time, for purposes of verifying compliance with this Regulatory Agreement, upon five (5) days prior written notice to Owner.

2.6.5 Owner shall submit its first Annual Report to Authority on the first year anniversary of the recordation of the Certificate of Completion. Thereafter, on the same date each year during the Term, Owner shall submit an Annual Report to Authority. Authority shall maintain the confidentiality of the information contained in any Annual Report specifically relating to any particular Qualified Household occupying a Unit, to the extent reasonably allowed by Law, as determined by the Authority Counsel.

2.6.6 **Qualified Purchaser.** Each purchaser of a Unit, excluding Owner (“**Qualified Purchaser**”) acknowledges that, without the assistance of Owner and Authority, the Qualified Purchaser would not have been able to acquire the Unit. Therefore, each Qualified Purchaser agrees that all of the covenants, conditions and restrictions created by this Regulatory Agreement are: (a) required to increase and preserve housing available to Qualifying Households in the City; (b) reasonable in light of their purposes; and (c) approved in every respect by Qualified Purchaser. Each Qualified Purchaser acknowledges that in acquiring its Unit, the sole and exclusive benefit sought by Qualified Purchaser was decent and affordable shelter and Qualified Purchaser has received such benefit. Each Qualified Purchaser further acknowledges that ownership of its Unit is not intended to give Qualified Purchaser a business opportunity or right, expectation or entitlement to any profits from any sale of its Unit. Therefore, each Qualified Purchaser agrees not to challenge the covenants, conditions or restrictions of this Regulatory Agreement or any right of Owner or Authority created under this Regulatory Agreement and acknowledges and agrees that the covenants, conditions or restrictions of this Regulatory Agreement are not an unreasonable restraint on any right of Qualified Purchaser to Transfer all or any part of such Qualified Purchaser’s Unit.

2.6.7 **Resale by Qualified Purchaser.**

(a) Owner Notice. Each Qualified Purchaser, for itself, its successors and assigns, hereby covenants and agrees that such Qualified Purchaser shall not Transfer its Unit (or any interest in its Unit), without first giving Notice to Owner (each, a “**Resale Transfer Notice**”) and obtaining the written concurrence of Owner that the proposed Transfer complies with this Regulatory Agreement. Within thirty (30) days following the receipt of a Resale Transfer Notice, Owner shall deliver to the Qualified Purchaser a written concurrence or objection to the Transfer of the Unit. Each Resale Transfer Notice shall include all of the following information:

(b) the identity of the proposed new Qualified Household to purchase the Unit at an Affordable Price (“**Resale Purchaser**”), including the identity of all persons in the household of the proposed Resale Purchaser proposing to reside in the Unit;

(c) all of the documentation described in Section 2.6.2 regarding the household of the proposed Resale Purchaser;

(d) the proposed resale price of the Unit payable by the proposed Resale Purchaser;

(e) the name, address, and telephone number of the escrow agent proposed to conduct the escrow for the Transfer of the Unit from the Qualified Purchaser to the proposed Resale Purchaser;

(f) a written acknowledgment and agreement from the proposed Resale Purchaser that the ownership and occupancy of the Unit is subject to this Regulatory Agreement; and

(g) such other information as Owner may reasonably request.

2.6.8 Resale Purchaser Qualifications. Each Qualified Purchaser acknowledges and agrees that all Resale Purchasers of a Unit must be a Qualifying Household, the proposed resale price of a Unit must be an Affordable Price for such Resale Purchaser and the Resale Purchaser must occupy the Unit as its principal residence. Each Qualified Purchaser agrees that Owner shall have the right and reasonable opportunity, prior to each resale of a Unit, to verify that each proposed real of a Unit will be to a Qualified Household at an Affordable Price for such Qualified Household and that the Resale Purchaser intends to occupy the Unit as its principal residence after acquiring title to the Unit.

2.6.9 Maintenance of Affordability Level. Each Unit shall, at all times during the Term, remain affordable to Qualified Households.

2.7 Owner Covenant Regarding Lease or Sale of Units. Owner, for itself, its successors and assigns, covenants and agrees that, if any Unit is leased or sold during the Term, the lease or sale of the Unit shall be accomplished through a written agreement and all of the following restrictions shall apply:

2.7.1 A Qualified Household shall be the record and primary occupant of the Unit.

2.7.2 Owner shall, upon request of such prospective occupant, provide a legible copy of this Regulatory Agreement to each prospective occupant of any Unit, prior to entering into a lease or sale agreement with such occupant for any Unit.

2.7.3 The written agreement for each Unit shall expressly state that it is subject and subordinate to this Regulatory Agreement.

2.7.4 The written agreement for each Unit shall not contain any of the following provisions:

(a) An agreement by the Qualified Household to be sued, to admit guilt or to the entry of a judgment in favor of Owner in a lawsuit brought in connection with the written agreement;

(b) An agreement by the Qualified Household that Owner may take, hold or sell personal property of any member(s) of the Qualified Household, without notice to the Qualified Household and a court decision on the respective rights of Owner and the member(s) of the Qualified Household, other than an agreement by the Qualified Household concerning disposition of personal property remaining in the Unit after the Qualified Household has moved out of the Unit;

(c) An agreement by the Qualified Household not to hold Owner or its agents legally responsible for any willful misconduct or negligence attributable to Owner or its agents;

(d) An agreement by the Qualified Household that Owner may institute a lawsuit, involving or affecting the Qualified Household or any of its members, without notice to the Qualified Household;

(e) An agreement by the Qualified Household that Owner may evict the Qualified Household without instituting a civil court proceeding in which the Qualified Household has an opportunity to present a defense before a court decision on the respective rights of Owner and the Qualified Household;

(f) An agreement by the Qualified Household to waive any right to a trial by jury;

(g) An agreement by the Qualified Household to waive the Qualified Household's right to appeal or to otherwise challenge a court decision in connection with the written agreement;

(h) An agreement by the Qualified Household to pay attorney's fees or other legal costs, even if the Qualified Household wins in a court proceeding by Owner against the Qualified Household; provided, however, the Qualified Household may be obligated to pay costs if the Qualified Household loses such a legal action;

(i) For rentals, an agreement by the Qualified Household to pay a security deposit in excess of the amount of one month's rent for a Unit;

(j) For purchasers, an agreement by a Qualified Household to pay more than twenty percent (20%) down payment for a Unit;

2.7.5 Each written agreement for a Unit shall contain all of the following provisions:

(a) Owner will not discriminate on the basis of race, creed, color, gender, sexual orientation, national origin, ancestry, religion, marital status, age, disability or receipt of public assistance or housing assistance in connection with the rental or sale of a Unit, and all contracts, applications and leases entered into for such purposes shall contain similar non-discrimination clauses to such effect.

2.7.6 For leases, Owner shall not terminate the tenancy or refuse to renew the lease or rental agreement of a Qualified Household except for: (i) serious or repeated violations of the terms and conditions of the lease; (ii) for violation of applicable Federal, California, or local law; or (iii) for other good cause. Owner shall, in connection with termination of the tenancy of a Qualified Household or a refusal to renew the lease or rental agreement of a Qualified Household, serve written notice upon the Qualified Household specifying the grounds for the action in accordance with all applicable Laws and at least sixty (30) days before the effective date of the termination of the tenancy, unless the termination is pursuant to a legal action in unlawful detainer.

2.8 Records Retention; Audit and Examination Rights.

2.8.1 **Retention of Records.** Owner shall prepare and maintain complete and accurate Records during the Term. Owner shall maintain all records for a period of no less than one (1) year after the creation of such record. From time to time, upon request from Authority, Owner shall make all Records available to Authority, Authority's auditor, representative or agent for examination and copying at any reasonable time, on five (5) calendar days advance Notice. Owner shall also provide Authority any additional information concerning the Units or the Properties reasonably requested by Authority.

2.8.2 **Audit Procedures.**

(a) Authority may, but shall have no obligation to, cause an audit of any and all Records by an independent auditor of Authority's selection at Authority's sole cost and expense. Authority shall preserve the confidentiality of information contained in the Records, to the extent permitted by Law, as determined by Authority Counsel.

(b) If Owner fails to provide any Annual Report to Authority, as and when required under Section 2.6.5, Owner shall be in Default under this Regulatory Agreement. Notwithstanding any other provision of this Regulatory Agreement, if Owner fails to deliver any Annual Report to Authority, within ten (10) calendar days after Notice specifying such Default, Authority shall have the right, but not the obligation, in addition to any other rights or remedies Authority may have under this Regulatory Agreement regarding such Default, to conduct an audit of any and all Records to attempt to identify the information that should have been provided by Owner in such Annual Report. Owner shall reimburse Authority for the cost of any audit conducted pursuant to this Section 2.8.2(b), on Notice of such cost from Authority. Owner shall pay Default Interest to Authority on the amount of any audit cost becoming due to Authority from Owner pursuant to this Section 2.8.2(b), that is not paid within fifteen (15) calendar days following Notice requesting such payment, from the date of such Notice until paid in full.

2.9 Compliance. Owner shall, during the Term and at Owner's sole cost and expense, in all material respects comply with all Laws.

3. **MANAGEMENT**

3.1 Management. Owner shall manage the Properties in a manner that will provide decent, safe and sanitary residential facilities to the occupants of the Properties, will comply with

all the provisions of this Regulatory Agreement, the AHA, and all applicable Law, including, without limitation, the HOA Rules. Authority shall have no responsibility for the management of the Properties.

3.2 Insurance. Owner shall maintain, at the sole cost and expense of Owner, the following insurance (or its then reasonably available equivalent) at all times during the Term of this Regulatory Agreement: (a) Liability Insurance; and (b) Property Insurance.

3.3 Restrictions on Change in Management or Control of Owner, Assignment and Transfer.

3.3.1 **Restrictions.** Owner acknowledges and agrees that the qualifications and identity of Owner are of particular importance and concern to Authority. Owner further acknowledges and agrees that Authority has relied and is relying on the specific qualifications and identity of Owner in entering into this Regulatory Agreement with Owner and that Authority would not have entered into this Regulatory Agreement but for the specific qualifications and identity of Owner. As a consequence, Transfers are permitted only as expressly provided in this Regulatory Agreement. Owner represents to Authority that it has not made and agrees that it will not create or permit to be made or created, any Transfer, either voluntarily, involuntarily or by operation of Law, without the prior written approval of Authority, which may be given, withheld or conditioned in the sole and absolute discretion of Authority. Any Transfer made in contravention of this Section 3.3 shall be voidable at the election of Authority. Owner hereby acknowledges and agrees that the restrictions on Transfers set forth in this Section 3.3 are reasonable.

3.3.2 **Delivery of Transfer Documents.** All instruments and other legal documents proposed to effect any proposed Transfer shall be submitted to Authority for review, at least thirty (30) calendar days prior to the proposed date of the Transfer, and the written approval, disapproval or conditions of Authority regarding the proposed Transfer shall be provided to Owner, within thirty (30) calendar days following Authority's receipt of all proposed Transfer documents. Owner agrees to reimburse Authority for all reasonable costs and expenses incurred by Authority in connection with its review of each proposed Transfer, including all Legal Costs and other Third Person consultant fees and expenses.

3.4 Indemnity.

3.4.1 **Owner Indemnity Obligations.** Owner shall indemnify, defend and hold harmless the Authority against any and all of the following: (a) any Claim arising from or related to the Properties or a Qualified Household; (b) any Application made by or at Owner's request; (c) any agreements that Owner (or anyone claiming by or through Owner) makes with a Third Person regarding the Properties; (d) any workers' compensation claim or determination relating to any employee of Owner or their contractors; (e) any Prevailing Wage Action relating to this Regulatory Agreement or the Properties; and (f) any Claim attributable to any action or failure to act by Owner.

3.4.2 **No Authority Liability.** During the Term: (a) Owner is and shall be responsible for operation of the Properties; and (b) Authority shall not be liable for any injury or

damage to any property (of Owner or any other Person) or to any Person occurring on or about the Properties.

3.4.3 Independent of Insurance Obligations. Owner's indemnification obligations under this Section 3.4 shall not be construed or interpreted as in any way restricting, limiting, or modifying Owner's insurance or other obligations under this Regulatory Agreement. Owner's obligation to indemnify Authority under this Section 3.4 is independent of Owner's insurance and other obligations under this Regulatory Agreement.

3.4.4 Survival of Indemnification and Defense Obligations. The indemnity and defense obligations of Owner under this Regulatory Agreement shall survive the expiration or earlier termination of this Regulatory Agreement, until any and all actual or prospective Claims regarding any matter subject to an indemnity obligation under this Regulatory Agreement are fully, finally, absolutely and completely barred by the applicable statutes of limitations.

3.5 No Limitation. Owner hereby acknowledges and agrees that Owner's duties, obligations and liabilities under this Regulatory Agreement, including without limitation, under Section 3.4, are in no way limited or otherwise affected by any information Authority may have concerning the Properties, whether Authority obtained such information from Owner, or from its own investigations or from a Third Person.

4. COVENANTS RUN WITH THE LAND

4.1 Covenants to Run With the Land. Owner and Authority hereby declare their mutual specific intent that the covenants, conditions, restrictions, reservations and agreements set forth in this Regulatory Agreement are part of a plan for the promotion and preservation of affordable housing within the territorial jurisdiction of City and that each shall be deemed covenants running with the Properties, binding upon each successor-in-interest of Owner in the Properties for the duration of the Term. Regardless of classification or characterization, each of the covenants, conditions, restrictions and agreements contained in this Regulatory Agreement touch and concern the Properties and each of them is expressly declared to be for the benefit and in favor of Authority for the duration of the Term, regardless of whether Authority is or remains an owner of any land or interest in land to which such covenants, conditions, restrictions or agreements relate. Authority, in the event of any breach of this Regulatory Agreement, has the right but not the obligation to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach, as provided in this Regulatory Agreement, at law or in equity. Owner hereby expressly assumes the duty and obligation to perform each of the agreements and covenants and to honor each of the reservations and restrictions set forth in this Regulatory Agreement. Each and every contract, deed or other instrument hereafter executed covering or conveying all or any portion of the Properties or any interest in the Properties or any Unit shall incorporate all of the provisions of this Regulatory Agreement, either expressly or by reference, and any contract, deed or other instrument transferring any estate or interest in the Properties shall conclusively be deemed to have been executed, delivered and accepted subject to the agreements, covenants, conditions, reservations, and restrictions of this Regulatory Agreement, regardless of whether such agreements, covenants, conditions, reservations and restrictions are set forth in or referenced such

contract, deed or other instrument. After such transfer or assignment, all rights and obligations of the transferor Owner shall be assumed by the transferee Owner and the transferor Owner shall not incur any liability or have any obligation under this Agreement accruing after the date of such transfer or assignment.

5. **REMEDIES**

5.1 **Remedies.** If a Default occurs, then Authority may, at the Authority's option, have any or all of the following described remedies, all cumulative (so exercise of one remedy shall not preclude exercise of another remedy), in addition to such other remedies as may be available at law or in equity or under any other terms of this Regulatory Agreement. The Authority's remedies shall include:

5.1.1 **Suits Before End of Term.** Authority may sue Owner, a Qualified Purchaser or Resale Purchaser for damages or other relief, from time to time, at the Authority's election, without terminating this Regulatory Agreement, including by mandamus or other suit, action or proceeding at law or in equity, to require Owner, Qualified Purchaser or Resale Purchaser, as applicable, to perform the covenants or agreements or observe the conditions or restrictions of this Regulatory Agreement, or enjoin any acts or things that may be unlawful or in violation of the rights of Authority under this Regulatory Agreement; or by other action at law or in equity, as necessary or convenient to enforce the covenants, agreements, conditions or restrictions of this Regulatory Agreement.

5.1.2 **No Waiver.** No failure by Authority to insist upon strict performance of any condition, covenant, agreement, restriction or reservation of this Regulatory Agreement or to exercise any right or remedy upon a Default, and no acceptance of full or partial payment of any amount due or becoming due to Authority during the continuance of any such Default, shall waive any such Default or such condition, covenant, agreement, restriction or reservation. No obligation of Owner under this Regulatory Agreement or the AHA, and no Default, shall be modified, except by a written instrument executed by Authority. No waiver of any Default shall modify this Regulatory Agreement or the AHA. Each and every covenant, agreement, condition, restriction and reservation of this Regulatory Agreement shall continue in full force and effect with respect to any other then-existing or subsequent Default of such condition, covenant, agreement, restriction or reservation of this Regulatory Agreement.

5.1.3 **Damages.** Authority may recover from Owner all damages Authority incurs by reason of Owner's Default and reimbursement of the Authority's reasonable out of pocket costs, including Legal Costs and bank fees for dishonored checks. Authority may recover such damages at any time after Owner's Default, including after the expiration of the Term. Notwithstanding any Law to the contrary, Authority need not commence separate actions to enforce Owner's obligations for each amount or payment not paid, or each month's accrual of damages and costs for Owner's Default, but may bring and prosecute a single combined action for all such damages and costs.

5.1.4 **Injunction of Breaches.** Whether or not a Default has occurred, Authority may obtain a court order enjoining Owner from continuing any Default or from committing any threatened Default.

5.2 Specific Enforcement. Owner agrees that specific enforcement of Owner's non-monetary obligations under this Regulatory Agreement is one of the reasons that Authority entered into the AHA and that, if Owner breaches any such obligation, potential monetary damages to Authority, as well as to prospective Qualified Households, would be difficult, if not impossible, to evaluate and quantify. Therefore, in addition to any other relief to which Authority may be entitled as a consequence of Owner's default under this Regulatory Agreement, Owner agrees to the imposition of the remedy of specific performance against Owner under this Regulatory Agreement.

5.3 Enforcement. Authority shall have the power to enforce this Regulatory Agreement and no other Person shall have any right or power to enforce any provision of this Regulatory Agreement on behalf of Authority or to compel Authority to enforce any provision of this Regulatory Agreement against Owner, the Properties or any Unit.

5.4 Termination by Agreement. Any provision of this Regulatory Agreement may be terminated upon written agreement between Authority and Owner if Authority, in its sole and absolute discretion, determines that such a termination will not adversely affect the affordable housing goals or requirements of Authority.

6. GENERAL PROVISIONS

6.1 Relationship of Parties. Nothing contained in this Regulatory Agreement shall be interpreted or understood by any of the Parties, or by any Third Person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between Authority and Owner or Owner's agents, employees or contractors. Owner shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform any services required of them by the terms of this Regulatory Agreement regarding the Properties. Except as otherwise expressly provided in this Regulatory Agreement, Owner has the right to exercise full control of employment, direction, compensation and discharge of all Persons assisting Owner in the development, operation or maintenance of the Properties. Owner shall be solely responsible for all matters relating to payment of its employees, including compliance with tax withholding and all other Laws governing such employees. Owner shall be solely responsible for its own acts and those of its agents and employees.

6.2 No Claims. Nothing contained in this Regulatory Agreement shall create or justify any claim against Authority by any Person that Owner may have employed or with whom Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the operation or maintenance of the Properties.

6.3 Warranty Against Payment of Consideration for Regulatory Agreement. Owner represents and warrants to Authority that: (a) it has not employed or retained any Person to solicit or secure this Regulatory Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Owner and Third Persons to whom fees are paid for professional services related to the Properties or this Regulatory Agreement; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will

be given by Owner or any of its agents, employees or representatives to any elected or appointed official or employee of either the Authority or City in an attempt to secure this Regulatory Agreement or favorable terms or conditions for this Regulatory Agreement. Breach of the representations or warranties of this Section 6.3 shall entitle Authority to terminate this Regulatory Agreement upon seven (7) days' Notice to Owner. Upon any such termination of this Regulatory Agreement, Owner shall immediately refund any payments made to or on behalf of Owner by the Authority pursuant to this Regulatory Agreement or otherwise related to the Properties prior to the date of any such termination.

6.4 Non-liability of Authority Officials or Employees. No Authority official, employee or agent shall be personally liable to Owner, or any successor in interest to Owner, in the event of any Default by Authority under this Regulatory Agreement.

6.5 Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California, without application of conflicts of laws principles.

6.6 Amendment. This Regulatory Agreement may be amended only by a written instrument executed by both Owner and Authority.

6.7 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Regulatory Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Regulatory Agreement, with advice from counsel and other advisers of their own selection. A term defined in the singular in this Regulatory Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which govern all language in this Regulatory Agreement. The words "include" and "including" in this Regulatory Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Regulatory Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Regulatory Agreement, refers to such document as modified from time to time (except, at the Authority's option, any modification that violates this Regulatory Agreement), and includes all exhibits, schedules, and riders to such document. The word "or" in this Regulatory Agreement includes the word "and."

6.8 Attorney's Fees. In the event that a Party brings an action to enforce this Regulatory Agreement or that otherwise arises out of this Regulatory Agreement, the prevailing Party in such action shall be entitled to recover from the other Party Legal Costs to be fixed by the court in which a judgment is entered, as well as the costs of such suit. For the purposes of this Regulatory Agreement, the words "reasonable attorneys' fees," in the case of Authority, include the salaries, costs and overhead of the lawyers employed in the Office of the Authority's Counsel, as allocated on an hourly basis.

6.9 Severability. If any term or provision of this Regulatory Agreement or its application to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Regulatory Agreement, or the application of such term or provision to Persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected

by such invalidity. All remaining provisions of this Regulatory Agreement shall be valid and be enforced to the fullest extent allowed by Law.

6.10 Titles and Headings for Reference Only. The titles and headings of the articles, paragraphs and sections of this Regulatory Agreement are for convenience and reference only and are not to be considered a part of this Regulatory Agreement and shall not in any way interpret, modify or restrict the meaning of any term, provision, covenant, condition, restriction, reservation or agreement contained in this Regulatory Agreement.

6.11 Notices.

6.11.1 Any and all Notices sent by either Party to the other Party pursuant to or as required by this Regulatory Agreement shall be proper, if in writing and transmitted to the principal office of Authority or Owner, as applicable, as designated in Section 6.11.2, by one or more of the following methods: (i) messenger for immediate personal delivery, (ii) a nationally recognized overnight delivery service (i.e., Federal Express, United Parcel Service, etc.) or (iii) registered or certified United States mail, postage prepaid, return receipt requested. Such Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice, in accordance with this Section 6.11. Any such Notice shall be deemed to be received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is delivered by personal delivery, on the date of delivery by a nationally recognized overnight courier service or three (3) calendar days after it is placed in the United States mail, as provided in this Section 6.11. Rejection, other refusal to accept or the inability to deliver a Notice because of a changed address of which no notice was given, shall be deemed receipt of the Notice.

6.11.2 The following are the authorized addresses for the submission of Notices to the Parties:

To the Buyer:	RM II LLC c/o Neal L. Grabowski 8780 19th Street, No. 373 Alta Loma, CA 91701 Fax: 909-981-2798
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To the Authority:	Colton Housing Authority 650 N. La Cadena Drive Colton, CA 92324 Fax: 909-370-5183 Attn: Executive Director
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6.12 Entire Agreement.

6.12.1 This Regulatory Agreement may be executed in counterpart originals, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

6.12.2 This Regulatory Agreement and the AHA constitute the entire understanding and integrate all of the terms, conditions, covenants, restrictions, reservations, terms, provisions and agreements of Authority and Owner regarding the Properties, and supersede all negotiations or previous agreements between Authority and Owner with respect to all or any part of the Properties.

6.13 Real Property Tax Abatement. Owner shall have the right to apply for and obtain an abatement and/or exemption of the Properties from real property taxes in accordance with all applicable rules and regulations, including Section 214(g) of the California Revenue and Taxation Code.

6.14 Authority Representative. The Executive Director shall have the authority to make approvals, issue interpretations, waive provisions, grant extensions of time, approve amendments to this Agreement and execute documents on behalf of the Authority so long as such actions do not materially or substantially change the number of the Units, the method for calculating the affordability of the Units or reduce the length of the affordability of the Properties or add to the costs incurred or to be incurred by Authority as specified herein. The Executive Director reserves the right, in its sole and absolute discretion, to submit any requested modification, interpretation, amendment or waiver to the Authority governing board if the Executive Director determines or believes that such action could increase the risk, liability or costs to Authority, or change the affordability covenants or reduce the length of affordability of the Properties.

[Signatures on following page]

**SIGNATURE PAGE
TO
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Rancho Med)**

IN WITNESS WHEREOF, Authority and Owner have executed this Regulatory Agreement by and through the signatures of their duly authorized representative(s) as of the date(s) set forth below:

AUTHORITY:


COLTON HOUSING AUTHORITY, a
public body, corporate and politic

By: 
William R. Smith
Executive Director

Date: 3/17/16

OWNER:

RM II LLC, a California limited liability
company

By: 
Neal L. Grabowski
Managing Member

ATTEST:

By: 
Carolina R. Padilla
Authority Secretary

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: 
Authority Counsel

[SIGNATURES MUST BE NOTARY ACKNOWLEDGED FOR RECORDING]

**EXHIBIT A-1
TO
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Rancho Med)**

Legal Description of Properties

San Bernardino County Assessor's Parcel Numbers ("APN") 275-311-01, 25, 30, 43, 62, 69, 78, 81, 82, 96; 275-312-02, 04,11, 52, 68, 71, 74, 76; 275-313-05, 22, 28, 32, 56, 68, 80.

**EXHIBIT A-2
TO
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Rancho Med)**

Map of Properties

Exhibit A-2
Map of Properties

EXHIBIT A-2 TO REGULATORY AGREEMENT

MAP OF PROPERTIES

Sale of Colton Housing Authority-owned Lots at Rancho Mediterranean

(Identified in shaded yellow)



EXHIBIT "B"
TO
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Rancho Med)

Income Certification Form

[Attached behind this cover page]

Exhibit B
Income Certification Form

Income Certification Form

NOTE TO OCCUPANT: This form is designed to assist you in computing "Adjusted Income" in accordance with the method set forth in the United States Department of Housing and Urban Development ("HUD") Regulations at United States Code of Federal Regulations, Title 24, Part 5, Section 5.611. You should make certain that this form is at all times up-to-date with the HUD Regulations.

Re: **[Address of Unit]**

1. Members of Household. I/We, the undersigned state that I/we have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit. Listed below are the names of all persons who intend to reside in the unit:

Names of Members of Household	Relationship to Head of Household	Age	Social Security Number	Place of Employment
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

2. Adjusted Income Computation. The total anticipated annual income, calculated in accordance with the provisions of this Section 2, of all persons over the age of 18 years listed in Section 1 for the 12-month period beginning the date that: (i) I/we plan to move into a unit; or (ii) the date of this Certification, whichever is later, is \$ _____.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this Section 2.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this Section 2);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, workers compensation and severance pay (except as provided in paragraph (c)(3) of this Section 2);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TAN) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TAN program definition at 45 C.F.R. 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this Section 2.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this Section 2).

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, gifts, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this Section 2);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in 24 C.F.R. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for Authority or Owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Authority's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying California or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;

(15) Amounts received by the family in the form of refunds or rebates under California or local law for property taxes paid on the Unit;

(16) Amounts paid by a California agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R. 5.609(c) apply.

3. Capital Asset and Savings Information. Do the persons whose income or contributions are included in Section 2 above:

(a) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interests in Indian trust land)? ___ Yes ___ No; or

(b) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value? ___Yes ___No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000? ___Yes ___No

(d) If the answer to (c) is yes, state:

(1) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent: \$_____; and

(2) the amount of such income, if any, that was included in Section 2 above: \$_____

4. Full-Time Student Information.

(a) Are all of the individuals who propose to reside in the unit full-time students*? ___Yes ___No

*A full-time student is an individual enrolled as a full-time student during each of five calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance and is not an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

(b) If the answer to 4(a) is yes, is at least one of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return? ___Yes ___No

5. No Relationship With Owner. Neither myself nor any other occupant of the unit I/we propose to rent has any family relationship to the owner of the unit or owns, directly or indirectly, any interest in the ownership. For purposes of this section, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member, and ownership, direct or indirect, by a partner of the individual.

6. Certification of Accuracy of Information. This certificate is made with the knowledge that it will be relied upon by Owner to determine maximum income for eligibility to occupy the unit; and I/we declare that all information set forth herein is true, correct and complete and, based upon information I/we deem reliable and that the statement of total anticipated income contained in this Section 2 is reasonable and based upon such investigation as the undersigned deemed necessary. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with Owner to lease the unit and will entitle Owner to prevent or terminate my/our occupancy of the unit by institution of an action for eviction or other appropriate action or

proceedings. I/we will assist Owner in obtaining any information or documents required to verify the statements made herein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

7. Housing Issuer Statistical Information (Optional--will be used for reporting purposes only):

Marital Status: _____

Race (Head of Household)

White _____ Asian _____ Hispanic _____
African-American _____ Native American _____ Other _____

Physical Disability: Yes _____ No _____

I/we declare under penalty of perjury under the laws of the United States of America and the laws of the State of California that the foregoing is true and correct.

Executed this _____ day of _____, _____ in San Bernardino County, California.

Applicant

Applicant

[Signature of all persons over the age of 18 years listed in Section 2 above required]

FOR COMPLETION BY OWNER ONLY:

8. Calculation of eligible income:

(a) Enter amount entered for entire household in Section 2: \$ _____

(b) (1) If answer to Section 3(c) is "yes," enter the total amount entered in paragraph 3(d)(1), subtract from that figure the amount entered in 3(d)(2) and enter the remaining balance (\$ _____);

(2) Multiply the amount entered in Section 8(b)(1) times the current passbook savings rate to determine what the total annual earnings on the amount in Section 8(b)(1) would be if invested in passbook savings (\$ _____), subtract from that figure the amount entered in Section 8(b)(1) and enter the remaining balance

(3) Enter at right the greater of the amount calculated under (1) or (2) above: \$ _____;

(c) TOTAL ELIGIBLE INCOME
(Line 8(a) plus line 8(b)(3)): \$ _____

9. The amount entered in Line 8(c):

_____ Qualifies the applicant(s) as a [insert income category of Qualified Household.]

_____ Does not qualify the applicant(s) as a Qualified Household.

10. Unit number assigned: _____

Rent: \$ _____ monthly/annually

11. The unit specified in Section 10 above [was/was not] last occupied for a period of, at least, 31 consecutive days by persons whose aggregate anticipated annual income, as certified in the above manner upon their initial occupancy of the unit, qualified them as a Qualified Household that was a [extremely low/very low/lower/moderate] Household.

12. Method used to verify applicant(s) income:

____ Employer income verification.
____ Copies of tax returns.
____ Other (____)

Management Agent

The undersigned employee has applied for a unit restricted to [extremely low/very low/lower/moderate] income occupancy. Every income statement of a prospective occupant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages _____ Overtime _____ Bonuses _____
Commissions _____

Total current income _____

I hereby certify under penalty of perjury under the laws of the United States of America and the laws of the State of California that the statements above are true and complete to the best of my knowledge.

Signature Date Title

I hereby grant you permission to disclose my income to _____ in order that they may determine my income eligibility for [Unit Address], Colton, California.

Signature Date

Please send to: _____

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding calendar year and certify under penalty of perjury under the laws of the United States of America and the laws of the State of California that the information shown in such income tax returns is true and complete to the best of my knowledge.

Signature Date

EXHIBIT "C"
TO
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Rancho Med)

Annual Report

[Attached behind this cover page]

Exhibit C
Annual Report

Annual Report

The undersigned, _____, as the authorized representative of RM II LLC, a California limited liability company ("Owner"), has read and is thoroughly familiar with the Regulatory Agreement and Declaration of Restrictive Covenants, Conditions, and Restrictions Restricting Use of Property for Affordable Housing (Rancho Med), dated as of _____, 2016 (the "Regulatory Agreement"), between Owner and the Colton Housing Authority, a public body, corporate and politic ("Authority").

As of the date of this Annual Report, the following percentage of completed residential Units are: (1) occupied by Qualified Households (as such term is defined in the Regulatory Agreement); or (2) are currently vacant and being held available for such occupancy and have been so held continuously since the prior occupant vacated such Unit:

Number of Units occupied by moderate income households:

Number of Vacant Units:

Number of Qualified Households who commenced occupancy during the preceding reporting period:

Number of Units sold to Qualified Households in the preceding reporting period:

The undersigned hereby certifies that: (1) a review of the activities of Owner during such reporting period and of Owner's performance under the Regulatory Agreement has been made under the supervision of the undersigned; and (2) to the best of the knowledge of the undersigned, based on the review described in clause 1, Owner is not in default under any of the terms and provisions of the Regulatory Agreement

Dated: _____

OWNER

RM II LLC, a California limited liability company

By: _____

Neal L. Grabowski

Managing Member

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

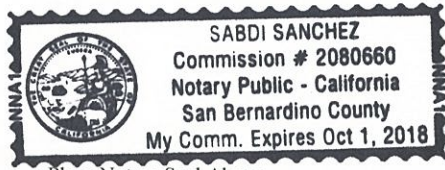
A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

On March 17, 2016, before me, Sabdi Sanchez, Notary Public, personally appeared Neal L. Grabowski, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



Place Notary Seal Above

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Regulatory Agreement and Declaration of Restrictive Covenants, Conditions and Restrictions restricting use of property for affordable housing (Rancho Med)

Document Date: 3/15/16 Number of Pages: 34

Signer(s) Other Than Named Above: William R. Smith

Capacity(ies) Claimed by Signer(s)

Signer's Name: Neal L. Grabowski

- ☐ Individuals
☒ Corporate Officer – Title(s): Managing Member
☐ Partner(s) - ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signers are Representing:

RM II LLC

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

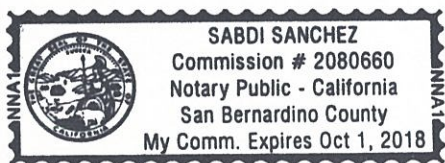
A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

On March 17, 2016, before me, Sabdi Sanchez, Notary Public, personally appeared William R. Smith, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



Place Notary Seal Above

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form to another document.

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Title or Type of Document: Regulatory Agreement and Declaration of Restrictive Covenants, Conditions and Restrictions restricting use of property for affordable housing (Rancho Med)

Document Date: 3/15/16 Number of Pages: 34

Signer(s) Other Than Named Above: Neal L. Grabowski

Capacity(ies) Claimed by Signer(s)

Signer's Name: William R. Smith

- ☐ Individuals
☒ Corporate Officer – Title(s): Executive Director
☐ Partner(s) - ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signers are Representing:

Colton Housing Authority

1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**) ss
3 **CITY OF COLTON**)

4 **CERTIFICATION**

5 **I, CAROLINA R. PADILLA**, City Clerk and Secretary for the Colton Housing
6 Authority of the City of Colton, California, do hereby certify that the foregoing is a full,
7 true and correct copy of **RESOLUTION NO. CHA-02-16**, duly adopted by the City
8 Council of said City, and approved by the Chairperson of said City, at its Regular
9 Meeting of said Colton Housing Authority Meeting held on the **15th day of March, 2016**,
10 and that it was adopted by the following vote, to wit:

11 AYES: COUNCILMEMBER Toro, Jorin, Navarro, González
12 Suchil, and Bennett
13 NOES: COUNCILMEMBER None
14 ABSTAIN: COUNCILMEMBER None
15 ABSENT: COUNCILMEMBER Mayor DeLaRosa
16

17 **IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official
18 seal of the City of Colton, California, this _____ day of _____, 20____.
19
20
21

22 _____
23 CAROLINA R. PADILLA
24 City Clerk/Secretary
25 City of Colton

26 (SEAL)
27
28